

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 630
And
Adopt Section 632
Title 14, California Code of Regulations
Re: Marine Protected Areas

- I. Date of Initial Statement of Reasons: January 9, 2002
- II. Date of Pre-adoption Statement of Reasons: September 16, 2002
- III. Date of Final Statement of Reasons: November 15, 2002
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: August 24, 2001
Location: Santa Barbara, California
 - (b) Discussion Hearing(s): Date: February 8, 2002
Location: Sacramento, California
Date: March 7, 2002
Location: San Diego, California
Date: April 4, 2002
Location: Long Beach, California
 - (c) Adoption Hearing: Date: October 23, 2002
Location: Santa Barbara, California
- V. Update:

In subsection (a) of Section 27.82, Title 14, CCR, the Department had originally proposed excluding Area 1A from the Cowcod Conservation Area. A description of Area 1A within Area 1 was included in the proposed regulatory action. The proposed regulation altered the boundaries of that area to allow deep water fishing in the vicinity of the northeast corner of Santa Barbara Island. New federal regulatory action will no longer allow this exemption so it is being removed from the options.

In the Department's proposed Section 632 (a)(2) a pelagic finfish is defined with a list of species. Included in this list is thresher shark, *Alopias vulpinus*. The reference should actually be thresher sharks, *Alopias spp.*

Also, in Section 632 (a)(7) it was inferred but not stated that vessels should be allowed to anchor in any Marine Protected Areas with catch aboard. In (a)(8) it was specifically stated that vessel with catch onboard would be allowed to transit through Marine Protected Areas. The phrase "with catch aboard" is now added to (a)(7).

The proposed regulatory change, excluding Area 1A from the Cowcod Conservation Area, was included to allow for deep water fishing opportunity in the vicinity of the northeast corner of Santa Barbara Island. The Pacific Fishery Management Council adopted regulations in September 2002 that will prohibit virtually all bottom fishing south of 40 degrees, 10 minutes N latitude, in waters between 20 and 150 fathoms in depth. Consequently, it is no longer appropriate or allowable, under Federal or State regulations, to provide for any deepwater bottom fishing opportunity at the northeast corner of Santa Barbara Island.

There are actually three different thresher sharks caught in the open ocean, or pelagic zone, off the west coast of the United States. Consequently the change from shark to sharks and *Alopias vulpinus* to *Alopias spp.*, which indicates multiple species of *Alopias*, is correct.

In the proposed regulation about anchoring and transiting Marine Protected Areas, it was specified that a vessel "with catch aboard" could transit the area. In the language regarding anchoring, although inferred, "with catch aboard" was not specified. A fisherman brought to the Department's attention that it should be clearly stated to avoid any confusion.

The Commission adopted the proposed regulations with the above modifications at its special hearing on October 23, 2002.

A variety of typographical errors were corrected. In Section 632 (b)(1) 34° 27.9' is actually 33° 27.9'. In Section 632(b)(2) 119° 21' is actually 119° 21.4' and 34° 00.6' is actually 34° 00.4'. In Section 632(b)(3) 34° 00.6' is actually 34° 00.4'. In Section 632 (b)(12) 34° 01.9' is actually 34° 01.8' and 120° 26.5' is actually 120° 26.6'.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

Responses to previous public comments received were included in the Pre-adoption Statement of Reasons (see attached Table 6).

- (1) Comment by Peter W. Davis, in a letter received October 3, 2002:
Supports the Department Proposal.
- (2) Comment by Mary Cavagnaro, in an email received October 7, 2002:
Supports the Department Proposal.
- (3) Comment by Steve Shimek, in a letter received October 17, 2002:
Supports Alternative 5 as the minimum level of protection necessary.

Department Response: The Department disagrees that Alternative 5 best achieves mandates to conserve biodiversity and establish sustainable fisheries. While none of the MPA network alternatives (the preferred alternative and Alternatives 1 through 5) is expected to have negative impacts on the environment, the preferred alternative proposes the highest number of habitats at a level of 20 percent or more. The Science Advisory Panel (SAP) recommendation to include at least 30 percent of all habitats had to be integrated with other MPA scientific and resource-user considerations to achieve the most feasible alternative. Alternative 5 is the only alternative that exceeds the SAP's minimum recommendation for total area, but it does a poorer job of representing individual habitats. Alternative 5 only represents 11 of the 17 habitats at a level of 20 percent or more of which 5 are represented at 30 percent or more. Conversely, while the preferred alternative is not the largest in overall area, it provides representation of the highest number of habitats at a level of 20 percent or more of all the alternatives. The preferred alternative represents 12 of 17 habitats used by the SAP for comparison of alternatives at a level of 20 percent or more, of which 5 are represented at 30 percent or more.

While Alternative 5 is the only alternative that incorporates an "insurance factor", this does not mean Alternative 5 is environmentally superior because, among other reasons, the distribution of MPAs in multiple areas around the islands inherently limits the impacts of single events on all reserves at once. Various mechanisms to reduce the chance of tanker collisions (e.g. vessel traffic separation) and to mitigate oil spills (e.g. spill response plans) also already exist and provide additional insurance.

The project also seeks to minimize short-term socioeconomic impacts while maintaining an ecologically viable network. By effectively including more heterogeneous habitats, the preferred alternative reduces the overall area subject to the proposed MPAs and therefore achieves the goal of minimizing economic impacts to a greater extent than Alternative 5. Finally, the preferred alternative is intended to function along with other management strategies to provide for sustainable resources. The preferred alternative has a higher ratio of habitat representation per dollar impact than Alternative 5 and thus is better at minimizing cost while

maximizing habitat representation (a proxy for protecting species). Thus, using the same bases of habitat representation as a proxy for protection of species used by the SAP, the preferred alternative is actually more likely to achieve conservation of biological diversity and promotion of sustainable fisheries than other alternatives.

- (4) Comment by Linda Krop, in a letter received October 17, 2002: Requested to make an oral presentation at the October 23 meeting and supported Alternative 5.

Department Response: Ms. Krop was given a position on the invited speaker panel for the October 23 Commission meeting. See Response to Comment 3 regarding Alternative 5.

- (5) Comment by Michael E. Karp, in an email received October 18, 2002: Supports the Department Proposal.

- (6) Comment by John Guth, in a letter received October 18, 2002: Opposes the Department's preferred alternative and supports the No Action alternative due to the recent shelf rockfish closures, a need to show how the decision will be integrated with fisheries management, and because the proposal does not look at the entire coast along with the islands.

Department Response: The No Action Alternative would not achieve project goals and objectives because it would result in the continuation of current habitat and population trends. As noted in the PFMC Phase I Technical Analysis of marine reserves (Parish et al. 2001), the estimated biomass of the majority of West Coast groundfish species have long-term downward trends. This is also true for some other species. For example, since 1985, abundances of harvestable red urchins (*Strongylocentrotus franciscanus*) have declined by 1 percent per year at fished sites on Santa Rosa and San Miguel Islands relative to non-fished reserve sites on Anacapa Island (S. Schroeter & D. Reed, analysis of NPS data). The commercial fishery for rock crab (*Cancer spp.*) has localized effects on crab abundance and size. Crab fishing areas intensively exploited over an extended period show a lower catch-per-trip and reduced size frequency distribution compared to lightly exploited areas (Leet et al. 2001). Very little is known about the long term status of many other stocks, including certain invertebrates and nearshore rockfish. Effective management of marine fisheries must take into account uncertainties about the status of stocks and the entire ecosystem supporting them, which is an integral component of the preferred alternative as recommended by the Department. The failure to take such an approach, in the Department's view, is to compromise ongoing efforts to rebuild overfished stocks and avoid other management actions that could have dramatic negative consequences for the fisheries.

The recent closures for shelf rockfish do not provide equal protection in deeper habitats to the proposed MPAs and should not be considered a surrogate. Various fisheries and gear types are still allowed to fish on the shelf under the new regulations. This includes halibut trawl gear and invertebrate trapping which have both bycatch and potential habitat impacts. Thus, the ecosystem protection provided by an MPA is not provided by this closure. The closure will be reviewed annually and could be modified or removed if new population estimates are developed. MPAs in the area would be more lasting and could remain in place if the shelf closure is lifted, maintaining an adequate amount of protected habitat to meet the variety of goals addressed in the proposed project.

The Department disagrees that focusing on the Channel Islands, as opposed to the entire coast as a whole, violates CEQA's proscription against "piecemealing" or "segmented" environmental review. The MLPA directs the Commission to reexamine and redesign California's MPA system through the adoption a Marine Life Protection Program and the subsequent implementation of that program through the adoption and implementation of an associated master plan. (See generally Fish & G. Code, Sections 2853, 2855). The MLPA process is currently underway, separate and apart from the proposed project.

The MLPA provides that nothing in the act "restricts any existing authority of the department or the commission to make changes to improve the management or design of existing MPAs *or designate new MPAs* prior to the completion of the master plan." [Id., Section 2861, subd. (c) (emphasis added)]. The MLPA, as a result, expressly authorizes and contemplates the designation of new MPAs prior to adoption of the master plan. The proposed project is entirely consistent with this provision of the MLPA. The MPAs contemplated by the proposed project are, in fact, independent of any actions the Commission and Department may take at some point in the future to adopt or implement the Marine Life Protection Program and the related master plan. Stated another way, the proposed project is neither a necessary precedent for the MLPA process nor does it commit the Department or Commission to adopt and implement a specific Marine Life Protection Program or master plan.

The preferred alternative contemplates the coordination of MPAs with other management measures to complete the regulatory framework (see Final Environmental Document (ED) at page E-3). The Final ED recognizes that MPAs should be coordinated with fisheries management and discusses how fisheries management activities will compliment MPAs on page 5-19. The proposed project attempts to address a specific set of goals and objectives, including, but not limited to, objectives to help sustain fisheries. The specific integration of MPAs into fisheries

management, including reductions in overall fleet capacity, total allowable catch, and allocation between user groups, is more appropriately dealt with through the Fishery Management Plan (FMP) process. FMPs are the tool used to establish these limits. The Nearshore FMP, for example, includes the use of MPAs in the management strategy.

- (7) Comment by Katherine E. Stone and Chris Hoeflinger, in a letter received October 18, 2002: Requested a 30-day continuance of the Commission Adoption Hearing to allow time to review the Final Environmental Document and avoid a conflict with a previously scheduled Pacific Fishery Management Council meeting.

Department Response: The adoption date for this project was listed as August 2, 2002 in the Initial Statement of Reasons. This date was postponed by the Commission to allow for comment from the Pacific Fishery Management Council (PFMC). The Commission voted at a regularly scheduled meeting in August 2002 to consider the proposed project at a special meeting in October 2002, following receipt of PFMC comments. The Commission and Department strive to avoid meeting conflicts with other public agencies, but such conflicts are unavoidable in some instances. The potential meeting conflict appears resolved, however, by the presence and testimony of Ms. Stone and her clients at the Commission meeting. As regards the Final Environmental Document, the Department and Commission made the document available to the public in the manner and as required by law. In the absence of any significant new information or a legal mandate requiring additional time for public review, the Department believes the amount of time afforded for public review of the proposed action was both extensive and more than adequate.

- (8) Comment by Michel Masson, in an email received October 20, 2002: Supports Alternative 5, 34 percent area in marine reserves.

Department Response: See Response to Comment 3.

- (9) Comment by Kenneth Palley, in an email received October 20, 2002: Supports Alternative 5, 34 percent area in marine reserves.

Department Response: See Response to Comment 3.

- (10) Comment by Robert Edman, in an email received October 21, 2002: Opposes the Department's preferred alternative and supports the No Action alternative.

Department Response: See Response to Comment 6.

- (11) Comment by Peter J. Halmay, in a letter received October 21, 2002: Makes a series of suggested requirements, regardless of which alternative is chosen. These suggestions include:
1. Adopt specific goals and objectives for each MPA.
 2. Establish terms and conditions for monitoring and evaluation.
 3. Require an annual status report, and set a specific period for conducting a comprehensive re-evaluation.
 4. Require monitoring and evaluation to be peer reviewed.
 5. Appoint an implementation team of stakeholders to work with the Department and Commission in undertaking baseline studies necessary to evaluate the MPAs, designing the analyses needed to determine the environmental, social, and economic effects of MPAs, and to assist with periodic status reports.

Department Response: The Department agrees with the Commenter's suggestions. Goals and objectives for the MPAs in the preferred alternative are listed in the Initial Statement of Reasons. The Department is committed to coordinating and undertaking appropriate monitoring and research and reporting back to the Commission at regular intervals. The Marine Life Protection Act contains a provision for Commission review of MPA petitions at least every three years after adoption of a Master Plan. The Marine Reserves Working Group implementation recommendations also included suggestions for a community oversight panel. These and other suggestions will be used to form an implementation strategy that best involves interested parties and provides for detailed monitoring and research.

- (12) Comment by Katherine E. Stone, in a letter received October 22, 2002: (1) Requesting continuance of Commission hearing on October 23, 2002; (2) contending that responses to comments on the Draft Environmental Document are not adequate; and (3) asserting that the Department's recommendation to establish the proposed Marine Protected Areas conflicts with the legislative history for the Marine Life Protection Act (MLPA).

Department Response: Ms. Stone requests a continuance of the scheduled meeting before the Commission on October 23, 2002, for a number of reasons. Ms. Stone asserts that the Commission meeting should be continued because no explanation was provided as to why the agenda item was re-scheduled from the regular Commission meeting scheduled for December, to a special meeting in October; because of a meeting on the same date of the Pacific Fisheries Management Council Highly Migratory Species Advisory Committee that members of her client organization would attend; because she and members of her client organization did not have sufficient time to review and comment on the Final Environmental Document; and because "commenting agencies" may

not have received the “minimum ten days to review their comments.”

The Department does not believe the comments by Ms. Stone merit a continuance of the scheduled meeting. The Commission voted at a regularly scheduled meeting in August 2002 to consider the proposed project at a special meeting in October 2002. The Commission and Department strive to avoid meeting conflicts with other public agencies, but such conflicts are unavoidable in some instances. The potential meeting conflict appears resolved, however, by the presence and testimony of Ms. Stone and her clients at the Commission meeting. As regards the Final Environmental Document, the Department and Commission made the document available to the public in the manner and as required by law. Finally, the Department provided all public agencies that commented on the Draft Environmental Document with proposed written responses to those comments at least 10-days prior to the Commission meeting on October 23, 2002.

The Department disagrees that responses to comments regarding the Draft Environmental Document are inadequate. The responses to comments in the Final Environmental Document comply with the requirements set forth in section 781.5, subdivisions (c) and (h), of Title 14 in the California Code of Regulations, as well as the standards governing responses to comments under the California Environmental Quality Act (CEQA) generally. (See Pub. Resources Code, § 21091, subd. (d); Cal. Code Regs., tit. 14, § 15088.) Ms. Stone’s assertions to the contrary are non-specific and generally fail to identify any specific comments that Ms. Stone or her clients believe do not comply with controlling legal standards. The Department, for example, rejects the contention that responses “dismiss” comments with the statement “we disagree.” In each instance, responses begin with a statement as to whether the Department agreed with the comment, but continue with an explanation as to the basis for that disagreement. In this respect, the Department rejects Ms. Stone’s general contention that the Environmental Documents do not include enough information to foster informed public decisionmaking by the Commission regarding the proposed project.

As to specific allegations by Ms. Stone, the Department disagrees that the Environmental Documents do not provide a “clear” explanation of the theoretical model that provides part of the basis for the Department’s recommendation to the Commission. That explanation can be found in Section 5.3.1.1, pages 5-8 through 5-17, of the Final Environmental Document. Likewise, the Department rejects the assertion that the Environmental Documents must, but did not, include an explanation as to the role of peer review in the process. Such a discussion, in fact, is included at page 5-17 of the Final Environmental Document, which describes the Pacific Fishery Management Council Science and Statistical

Committee review of the reserve size recommendation. This review was presented as an independent peer review. The Department, in turn, rejects the notion that responses to comments in the Final Environmental Document are inadequate under CEQA because of the “appearance” to Ms. Stone that the Department “did not utilize readily available information in arriving at its conclusions” in the Final Environmental Document. Finally, to the extent Ms. Stone contends the response to a comment letter by Mr. Hoeflinger dated August 18, 2002, is inadequate, the statement is conclusory and non-specific, and the Department respectfully disagrees.

Finally, with respect to Ms. Stone’s contention that the proposed project conflicts with the legislative history underlying the MLPA, the Act itself expressly states that nothing in the statute restricts any existing Commission authority to designate new MPAs prior to the completion of the master plan. Likewise, the MLPA provides that the Commission may abbreviate the master plan process to account for equivalent activities that have taken place before enactment of the MLPA, providing those activities are consistent with the statute. The designation of MPAs at the Channel Islands, as a consequence, is consistent with the MLPA.

- (13) Comment by Linda Hicks, October 23, 2002 Commission meeting: The proposed closures, while sounding small, are 95 percent of the fishable areas. The real issue is commercial fishing.

Department Response: The Department contends that, based on detailed socioeconomic analyses, the proposed closure does not impact 95 percent of recreational fisheries. These analyses estimate that overall only 13 percent of existing recreation income is derived from fishing in the proposed closed areas. The planning process included detailed input from recreational anglers and adjustments were made in order to allow certain existing activities to continue.

While it is true that commercial fishing takes the majority of fish (by number and weight) of all species combined, recreational anglers also have an impact. The breakdown of catch is, in fact, much more even when looking at individual species, especially in the nearshore environment. For instance, recreational anglers take approximately 60 percent of all nearshore finfish (based on average landings 1994-1998). In addition, recreational anglers tend to target larger “trophy” fish that can provide significantly more reproductive potential to a population. While commercial fishing technology has contributed to increased efficiency, other technology has also increased the recreational angler’s ability to target specific areas repeatedly, including advances in navigational equipment such as Global Position System and RADAR.

- (14) Comment by Katherine Stone, October 23, 2002 Commission meeting:

Claimed that there was insufficient time to review the Final Environmental Document and requested that it be revised and re-circulated for review. Stated that the baseline studies were inadequate for the purposes of the California Environmental Quality Act (CEQA) review. Indicated that the State Waters phase should not go forward separately from the Federal Phase and that a joint Environmental Impact Report should be prepared. Stated that a cursory review of the legislative intent of the MLPA showed that this process should not be separate from the full Statewide MLPA process.

Department Response: The Draft Environmental Document was available for review for a period of 94 days, significantly more than the required minimum 45-day period. The Final Document did not contain changes to the potential for negative environmental impacts and was revised only to expand upon the previously presented information. This type of revision does not require additional public review. Likewise, the Department made the Final Environmental Document available to the public at the time and in the manner required by law. Moreover, because the Final Environmental Document did not contain significant new information, nor did the commenter provide such information, substantial evidence supports the Department and Commission's determination that revision and recirculation of the Final Environmental Document is not warranted.

The baseline information provided in the Environmental Documents includes a 20-year ongoing study of the kelp forest environment conducted by the Channel Islands National Park. This baseline is one of the best long-term monitoring programs in the State. The Fish and Game Commission has authority for establishing, modifying, or deleting MPAs in State Waters. It is inappropriate for the Commission to make decisions on the entire State and Federal Waters recommendation. By taking a phased approach, the Department limited the short-term economic constraints that the full project would potentially create. Even so, the Environmental Document discussed the potential economic impact of the entire project in the cumulative impacts discussion. Nothing in the MLPA limits the Commission's existing authority to create, modify, or delete MPAs. The MLPA specifically states "(n)othing (in this chapter restricts any existing authority of the department or the commission to make changes to improve the management or design of existing MPAs or designate new MPAs prior to the completion of the master plan." [Fish and Game Code: 2860(c)].

- (15) Comment by Chris Hoeflinger, October 23, 2002 Commission meeting: Stated that the theoretical model used in the planning process requires that existing levels of fisheries management be maintained outside MPAs, thus requiring a reduction in effort to account for lost stock. Also stated that the Environmental Document does not demonstrate whether or not

the preferred alternative will have negative impacts.

Department Response: The commenter appears to be referring to one of the recommendations made by the Science Advisory Panel (SAP). The Department believes that the level of closures proposed in the preferred alternative would not require adjustments to effort or total allowable catch beyond those that are already occurring in various other management processes. The potential increased production within the proposed MPAs is expected to more than offset any increased effort outside MPAs. The Department balanced the SAPs recommendation to close at least 30 percent of each habitat with other goals and scientific information. The Environmental Document discusses the impacts of the proposed project in Chapter 5. This chapter, along with responses to comments included Final Environmental Document, provide the basis for the Department and Commission's determination that approval and implementation of the proposed project will not result in any significant, adverse environmental impacts.

- (16) Comment by Chuck Buhagiar, October 23, 2002 Commission meeting: Stated that the Commission should put the interests of recreational anglers who pay for these areas first.

Department Response: These areas are intended to provide an ecosystem approach to management and allow for ecological processes to occur in a relatively undisturbed state. Recreational extraction would necessarily alter these processes and impact the ecosystem. In particular, larger, older, fish that produce significantly more young tend to be removed by recreational anglers. This reduces the reproductive potential and limits the ability of an area to replenish populations.

- (17) Comment by Mark Welther, October 23, 2002 Commission meeting: Supports the Department's proposal.

- (18) Comment by Bart Hall, October 23, 2002 Commission meeting: Stated that traditional management measures were superior to MPAs. He noted that MPAs in Florida showed a decrease in biodiversity and that no scientific data could implicate recreational anglers for declines. He also suggested that closing 25 percent of the area was equal to 50-75 percent of the fishable area.

Department Response: See Response to Comment 13 regarding percentage closure and recreational levels of take. MPAs are considered one of many tools available to fisheries managers and are not the only tool used in the project area. However, certain ecosystem functions of MPAs cannot be provided by other management measures. For example, size, season, and bag limits do not prevent bycatch of non-target species or

undersized individuals nor do they fully provide for natural predator and prey interactions. It is clear that traditional management measures alone have not been sufficient to protect several groundfish and other populations. Incidental impacts of various fishing practices may also have unintended effects that would not occur in an MPA, particularly a no-take reserve. This includes both direct impacts to the environment (e.g., damage to a reef from trawling) and indirect ecosystem impacts (e.g., removing all large, old individuals and altering the size composition). MPAs by their nature provide for undisturbed habitats and act as "natural hatcheries". These facts lead to benefits in total production and export of young. The Department believes MPAs are an important and necessary component of the proposed project.

- (19) Comment by Chris Evans, October 23, 2002 Commission meeting: Supports the Department's proposal.
- (20) Comment by Dianne Meester, October 23, 2002 Commission meeting: The Sanctuary Advisory Council supports the Department's proposal.
- (21) Comment by Mick Kronman, October 23, 2002 Commission meeting: Stated that the Santa Barbara City Council passed a resolution supporting the goals of the process, but cautioned about balancing the goals and noting that if MPAs are too large people will not use their boats and the City will lose revenue.

Department Response: The comment appears to support the process that was used to develop the preferred alternative. This process included user group input and attempted to minimize short-term socioeconomic impacts. By doing so, the Department minimized the total area.

- (22) Comment by Joel Greenburg, October 23, 2002 Commission meeting: Stated that this process disregards other processes and that the Commission should create a large State Marine Park, with no commercial take, or defer to the MLPA process.

Department Response: See Response to Comment 6 regarding the requirements of the MLPA process and Response to Comment 13 regarding the relative level of commercial and recreational take. The impacts of deferring any Commission action regarding MPAs in the Sanctuary to the ongoing MLPA process are unknown. Because this process could result in either the status quo (same as No Action) or new MPAs, it is not possible to predict potential environmental impacts (See Final ED at p. 6-64). Certainly, deferral is not contemplated in the MLPA. The Act, as noted in previous responses to comments, states that it is not intended to restrict any existing authority of the Department or the Commission to make changes to improve the management or design of

existing MPAs or designate new MPAs. The proposed project falls squarely into this category.

- (23) Comment by Bill James, October 23, 2002 Commission meeting: Mr. James made three suggestions: 1) use a phased approach and be cautious, 2) manage for cumulative effects and maximum sustainable benefits, and 3) incorporate habitat and full reef systems.

Department Response: Phasing is discussed in the Initial Statement of Reasons for Regulatory Action and in Alternative 2 (the "Proactive Fishermen's Plan") as Attachment 8 to that document. For clarity, a summary of the same information is included in the Final ED in Section 3.2.2. Phasing, however, is not required by the MLPA. The act provides, in fact, that it is not intended to restrict any existing authority of the Department or the Commission to make changes to improve the management or design of existing MPAs, or to designate new MPAs. Phasing, as a result, is neither required nor prohibited by the MLPA.

The Department is not recommending phasing of the proposed project to the Commission for several reasons. First, some de facto phasing occurs as a natural consequence of program implementation: first by the Fish and Game Commission (for actions in state waters), and then later, by the CINMS (for actions in federal waters). Second, phasing can occur if the Fish and Game Commission decides to implement some portions of the plan before others. Third, phasing would not alter the final impacts to the environment of the whole project, although it could delay socioeconomic impacts over time. Fourth, phasing might add another layer of complexity to the implementation of monitoring, research, and evaluation activities, as well as to the generation of baseline information. Also, a phased or incremental approach to implementation would not necessarily avoid socioeconomic impacts to recreational and commercial fishing, but would only draw them out. Most importantly, delays in implementing the MPAs would delay the realization of environmental benefits flowing from such MPAs.

With regards to cumulative effects and maximum sustainable benefits, the Department notes that the adaptive management component of the proposed project, as required by the Marine Life Protection Act, which includes ongoing monitoring, research and evaluation after project approval, will provide ongoing information regarding post-approval environmental conditions. This information, along with the Department's authority to recommend additional management measures to the Commission, will ensure that approval of the proposed project does not result in any significant environmental impacts. This would not be limited to creation, modification, or removal of MPAs and could include measures such as reduced allowable catch, increased size limits, seasonal closures,

etc.

The Department agrees that habitat information should be considered and used this information in the planning process. Due to the subjective nature of determining habitat quality, the proposed project instead focused on including a wide variety of habitats. One way of determining the relative value of an individual area is to consider the number of habitats within that single area (habitat heterogeneity). These areas include breeding sites, marine mammal haul outs, rare habitats, and critical habitats for various species of interest all of which are included in the proposed project.

- (24) Comment by Bob Sollen, October 23, 2002 Commission meeting: Supported Alternative 5.

Department Response: See Response to Comment 3.

- (25) Comment by Steve Rebuck, October 23, 2002 Commission meeting: Stated that existing MPAs do not work because of damage to populations from marine mammals, such as sea otters at the Pismo Clam Reserve. Supported deferring to the MLPA.

Department Response: Marine mammals are part of the natural ecosystem and evolved along with the other various species. In some cases, such as in the Pismo Clam Reserve, the natural equilibrium between marine mammals and their prey is at a level that is below what is seen in areas where the mammals are absent. This does not, however, damage the long term sustainability of either species. See Response to Comment 22 regarding deferral to the MLPA process.

- (26) Comment by Richard Charter, October 23, 2002 Commission meeting: Supported the Department's proposal and submitted form letters in support of the preferred alternative (1 copy attached).

- (27) Comment by Sal Vallone, October 23, 2002 Commission meeting: Supported deferring to the MLPA and noted that marine mammals are the problem.

Department Response: See Response to Comment 22 regarding deferral to the MLPA process and Response to Comment 25 regarding the impacts of marine mammals.

- (28) Comment by Dan Fink, October 23, 2002 Commission meeting: Stated that fishing is as good as it has ever been and the Florida MPA example ignores the removal of gill nets.

Department Response: The Department disagrees that all fish species are doing well. Many groundfish with population estimates (e.g., cowcod, canary rockfish, bocaccio rockfish, and lingcod) are Federally designated as overfished. Other finfish populations, especially nearshore, have not been assessed but are likely at very low levels. White abalone was recently listed as the first marine invertebrate under the Endangered Species Act and black abalone has been proposed for listing. Continuing trends of declining populations of many species point to a need for new management strategies.

The statement about the Florida MPA example is in reference to the closed area at the Kennedy Space Center. In this example, recreational fishing records have been shown to be significantly higher adjacent to a no-take area (Roberts, et al. 2001). Criticism of this example has been raised stating that fish populations increased only after a ban on gill netting. It should be noted, however, that while the gill net ban was for the entire State of Florida, the increased catches of record size fish occurred only adjacent to the closed area.

- (29) Comment by Mike McGinnis, October 23, 2002 Commission meeting: Supported the Department's proposal at a minimum.
- (30) Comment by Daniel Wilson, October 23, 2002 Commission meeting: Supported the Department's proposal.
- (31) Comment by Chad Woods, October 23, 2002 Commission meeting: Suggested postponing the decision until more data are available.

Department Response: Postponing the decision while waiting for more data would have the same potential impact as either the No Action alternative or deferring to the MLPA process. See Response to Comment 6 regarding the No Action alternative and Response to Comment 22 regarding deferring to the MLPA.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

A proposal was made to include an alternative representing approximately 39 percent of the Channel Islands National Marine Sanctuary area. This alternative included 9 State Marine Reserves, each extending to the seaward boundary of the Channel Islands National Marine Sanctuary. The alternative was rejected for consideration due to high initial economic impacts and its similarity to Alternative 5.

An initial proposal was made to the Commission to close approximately 23 percent of the Channel Islands, including San Nicolas Island. This proposal included 6 State Marine Reserves extending from the shoreline to a distance of 1 nautical mile offshore. This alternative was rejected due to its similarity in protection to the preferred alternative and Alternative 3.

A proposal was made to complete the State waters portion of the MPA network in a single phase. In this alternative, reserves proposed to extend into federal waters would initially be bounded by the three nautical mile offshore boundary, rather than a line of latitude or longitude. This alternative would change the initial economics impacts, but would negate the need for a second regulatory process in State waters to connect to the Federal waters phase. This proposal is provided as a sub-alternative to each alternative discussed in section in the Initial Statement of Reasons.

(b) No Change Alternative:

The no change alternative would continue existing resource and fisheries management measures such as bag, season, and size limits as the sole protection of marine resources. The no change alternative would leave existing MPAs in the Channel Islands National Marine Sanctuary unchanged. This would provide no additional protection to resources or ecosystem-based protection of entire habitats. The no change alternative would not address the problem statement developed by consensus of the Marine Reserves Working Group, nor the goals of the Marine Life Protection Act.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

Each alternative may have negative short-term impacts on commercial and recreational fishing businesses. The impacts presented here do not represent a complete socioeconomic impact analysis, but rather what is generally referred to as a Step 1 analysis or “maximum potential loss.” This analysis simply sums up the activity that currently takes place within a given alternative and translates these activities into corresponding economic values. Maximum potential loss does not take into account other management strategies/regulations and human behavioral changes, such as moving to other areas or changing fishing gear, that may mitigate, offset, or make matters better or worse. In addition, maximum potential loss does not consider possible future benefits. Comparisons of maximum potential loss to commercial fish landings, income derived from recreational fisheries, and maximum impact to non-consumptive user derived income were computed for each alternative (Tables 1, 2 and 3), as well as expansions of the direct impacts of commercial fish landings to local economies (Table 4). It is important to note that non-consumptive users are considered beneficiaries of MPAs and thus impact to non-consumptive income is positive.

These calculations represent the loss and value in the initial State water phase of each alternative. Full comparisons of maximum potential loss and values for both State and federal phases have also been computed.

The potential impacts of the Department’s recommended preferred alternative are detailed here and compared to the other alternatives. The maximum potential loss to commercial fish landings would vary between 5.8 percent and 16.5 percent of annual ex-vessel value generated in Sanctuary waters in the Department preferred alternative (Table 1). This reflects a combined maximum potential annual ex-vessel loss of

\$3,307,652 (1996 - 1999 average ex-vessel value) to commercial fisheries (Table 1). This loss can be expanded to include losses in total income including processors, fish buyers and other related business. This maximum potential loss in income from commercial activities to all counties is estimated at \$10,123,680 per year (Table 4).

The maximum potential loss to income derived from recreational fishing varies between 11.6 percent and 24.6 percent annually in the Department preferred alternative (Table 2). This represents a maximum potential loss in income of \$3,284,059 generated by recreational fishing annually (Table 2).

Maximum potential impact to income derived from non-consumptive activities (diving, whale watching, kayaking, sightseeing, and sailing) ranges between 10.9 percent and 29.0 percent annually in the Department preferred alternative (Table 3). This represents a maximum potential annual income of \$954,601 generated by non-consumptive activities annually (Table 3). Non-consumptive income is that supported by existing activities. This income is expected to increase over time by some unknown amount based on expected improvements in site quality.

In the long term, the potential negative impacts are expected to be balanced by the positive impacts of sustainable fisheries, non-consumptive benefits, and ecosystem function in the reserve areas. In addition potential benefits may be realized through adult fish spillover to areas adjacent marine reserves and larval transport to distant fished sites.

Table 1: MAXIMUM POTENTIAL LOSS IN ANNUAL EX-VESSEL VALUE TO COMMERCIAL FISHERIES BY SPECIES GROUP (1996-1999 AVERAGE VALUES) FOR THE INITIAL STATE WATERS PHASE

Species Group	Preferred Alternative		Alternative 1		Alternative 2		Alternative 3		Alternative 4		Alternative 5	
	Value	%	Value	%	Value	%	Value	%	Value	%	Value	%
Squid	\$1,660,718	12.73	\$661,722	5.07	\$712,953	5.46	\$695,876	5.33	\$1,716,217	13.15	\$2,079,098	15.94
Kelp	\$332,794	5.55	\$265,568	4.43	\$332,794	5.55	\$298,241	4.98	\$467,886	7.81	\$730,650	12.20
Urchins	\$830,464	15.77	\$735,214	13.96	\$704,761	13.39	\$753,956	14.32	\$1,068,453	20.29	\$1,338,737	25.43
Spiny Lobster	\$149,133	16.17	\$81,627	8.85	\$83,425	9.05	\$97,403	10.56	\$150,333	16.30	\$202,201	21.93
Prawn	\$58,615	8.34	\$94,170	13.39	\$63,271	9.00	\$94,170	13.39	\$104,858	14.91	\$63,271	9.00
Rockfish	\$87,985	16.02	\$72,964	13.28	\$60,731	11.06	\$88,222	16.06	\$116,040	21.12	\$144,957	26.39
Crab	\$50,139	14.59	\$26,331	7.66	\$26,943	7.84	\$26,278	7.65	\$48,483	14.11	\$54,416	15.84
Tuna	\$8,544	2.80	\$5,007	1.64	\$5,467	1.79	\$5,812	1.90	\$7,886	2.58	\$9,495	3.11
Wetfish	\$28,511	9.46	\$9,994	3.31	\$12,573	4.17	\$10,078	3.34	\$20,675	6.86	\$32,924	10.92
CA Sheephead	\$38,622	16.37	\$24,024	10.18	\$44,262	18.76	\$26,174	11.09	\$48,562	20.58	\$63,098	26.74
Flatfishes	\$22,652	12.32	\$9,562	5.20	\$20,152	10.96	\$9,562	5.20	\$20,546	11.17	\$28,421	15.46
Sea Cucumber	\$27,731	16.54	\$21,406	12.76	\$28,667	17.09	\$23,361	13.93	\$32,909	19.62	\$43,477	25.93
Sculpin & Bass	\$6,865	11.38	\$4,435	7.35	\$6,004	9.95	\$4,571	7.58	\$7,248	12.01	\$8,611	14.27
Shark	\$4,879	14.04	\$3,058	8.80	\$1,773	5.10	\$2,906	8.36	\$5,321	15.31	\$6,351	18.28
Total	\$3,307,652	11.77	\$2,015,082	7.17	\$2,103,776	7.48	\$2,136,610	7.60	\$3,815,416	13.57	\$4,805,706	17.10

TABLE 2: MAXIMUM POTENTIAL LOSS IN ANNUAL INCOME GENERATED BY CONSUMPTIVE RECREATIONAL ACTIVITIES FOR THE INITIAL STATE WATERS PHASE

Activity Type	Preferred Alternative		Alternative 1		Alternative 2		Alternative 3		Alternative 4		Alternative 5	
	Income	%	Income	%	Income	%	Income	%	Income	%	Income	%
Charter/Party Boat Fishing	\$1,915,274	11.55	\$1,344,968	8.11	\$1,745,881	10.53	\$1,390,486	8.39	\$2,168,875	13.08	\$2,487,182	15.00
Charter/Party Boat Diving	\$458,094	18.06	\$185,887	7.33	\$492,244	19.41	\$201,313	7.94	\$475,823	18.76	\$656,576	25.89
Private Boat Fishing	\$616,055	14.09	\$332,452	7.60	\$580,097	13.26	\$349,440	7.99	\$681,994	15.59	\$788,874	18.04
Private Boat Diving	\$294,636	24.63	\$56,572	4.73	\$279,006	23.33	\$60,677	5.07	\$297,016	24.83	\$373,787	31.25
Total	\$3,284,059	13.30	\$1,919,879	7.70	\$3,097,229	12.60	\$2,001,916	8.10	\$3,623,708	14.60	\$4,306,419	17.40

TABLE 3: MAXIMUM POTENTIAL IMPACT¹ IN ANNUAL INCOME GENERATED BY NON-CONSUMPTIVE ACTIVITIES FOR THE INITIAL STATE WATERS PHASE

	Preferred Alternative		Alternative 1		Alternative 2		Alternative 3		Alternative 4		Alternative 5	
Activity Type	Income	%	Income	%	Income	%	Income	%	Income	%	Income	%
Whale Watching	\$533,824	14.6	\$181,453	5.0	\$574,941	15.8	\$155,610	4.3	\$602,149	16.5	\$690,701	18.9
Non-Consumptive Diving	\$292,754	18.6	\$128,978	8.2	\$269,708	17.1	\$134,178	8.5	\$322,101	20.5	\$374,930	23.8
Sailing	\$62,438	10.9	\$28,196	4.9	\$68,953	12.1	\$33,224	5.8	\$73,706	12.9	\$86,615	15.2
Kayaking / Island Sightseeing	\$65,585	29.0	\$23,301	10.3	\$23,332	10.3	\$25,032	11.1	\$31,676	14.0	\$70,676	31.2
Total	\$954,601	15.8	\$361,928	6.0	\$936,934	15.6	\$348,044	5.8	\$1,029,632	17.1	\$1,222,922	20.3

¹Non-consumptive users are considered beneficiaries of MPAs. Therefore impact, in this case, is positive.

TABLE 4: MAXIMUM POTENTIAL LOSS IN ANNUAL INCOME GENERATED BY COMMERCIAL FISHERIES BY COUNTY¹ FOR THE INITIAL STATE WATERS PHASE

County	Preferred Alternative	Alternative 1	Alternative 2	Alternative 3	Alternative 4	Alternative 5
	Income	Income	Income	Income	Income	Income
Monterey	\$1,207,845	\$481,271	\$518,533	\$506,111	\$1,248,202	\$1,512,132
San Luis Obispo	\$17,914	\$14,383	\$12,168	\$17,315	\$23,310	\$29,095
Santa Barbara	\$2,085,917	\$1,679,016	\$1,625,984	\$1,759,866	\$2,557,664	\$3,203,964
Ventura	\$5,102,153	\$2,279,347	\$2,418,613	\$2,386,413	\$5,377,737	\$6,452,097
Los Angeles	\$1,174,655	\$481,003	\$522,535	\$507,237	\$1,210,094	\$1,472,076
Orange	\$23	\$12	\$13	\$13	\$22	\$27
San Diego	\$535,173	\$427,929	\$533,544	\$479,688	\$751,107	\$1,168,775
All Affected Counties	\$10,123,680	\$5,362,962	\$5,631,389	\$5,656,664	\$11,168,136	\$13,838,166

¹Counties listed are those where fish are landed and/or processed.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Each alternative has potential impacts on the creation and elimination of jobs related to commercial and recreational fishing and non-consumptive activities. As with economic impacts, the impacts listed here are a Step 1 or “maximum potential loss” analysis. This analysis simply sums up the activity that currently takes place within a given alternative and translates these activities into corresponding economic values. Maximum potential loss does not take into account other management strategies/regulations and human behavioral changes that may mitigate, offset, or make matters better or worse. In addition, maximum potential loss does not consider possible future benefits.

The maximum potential numbers of jobs lost relating to commercial and recreational fishing activities is estimated to be 355 and the existing jobs supported by non-consumptive activities is estimated to be 19 under the preferred alternative. This represents the potential elimination of jobs in the initial State water phase. The range in job losses for the other alternatives is from 190 (Alternative 1) to 475 (Alternative 5). The range of jobs supported by non-consumptive activities for the other alternatives is from 8 (Alternatives 1 and 3) to 24 (Alternative 5). Non-consumptive jobs are the current jobs supported by existing activities. These jobs would be expected to increase over time by some unknown factor based on expected improvements in site quality.

TABLE 5: MAXIMUM POTENTIAL NUMBERS OF JOBS¹ ELIMINATED OR SUPPORTED BY JOB SOURCE FOR THE INITIAL STATE WATERS PHASE

	Preferred Alternative	Alternative 1	Alternative 2	Alternative 3	Alternative 4	Alternative 5
Source	Jobs	Jobs	Jobs	Jobs	Jobs	Jobs
Commercial Industry jobs eliminated	296	156	161	164	324	397
Consumptive Recreational Industry jobs eliminated	59	34	56	36	65	78
Non-Consumptive jobs ²	19	8	18	8	19	24

¹ Jobs are listed in total employment (direct and indirect).

² Non-Consumptive Jobs are the current jobs supported by existing activities. These jobs would be expected to increase over time by some unknown factor based on expected improvements in site quality.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Any additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and depend on not only the impacts of the proposed regulation but other regulations and processes as well. Current cooperative efforts with the Sanctuary and Channel Islands National Park provide funding for some existing costs and are expected to increase with the adoption of these regulations. While changes in enforcement, monitoring, and management may occur, these changes are not expected to create significant changes to funding or costs to State agencies.

Enforcement Efforts

The Department's Marine Region currently deploys 59 law enforcement officers statewide. In the Santa Barbara and Ventura county area 3 lieutenants and 4 wardens/boarding officers positions are funded and would form the baseline of MPA enforcement. One 54 ft (16.5 m) patrol boat will be stationed in Ventura in the coming year. A second 54 ft patrol boat is presently stationed in Dana Point and assists with enforcement in the Channel Islands. Marine Region wardens currently enforce a range of regulations around the Channel Islands. The proposed regulations may change the specific enforcement duties, but not the level of effort.

The Sanctuary has made a commitment to contribute funds directly to the Department to enhance enforcement capabilities in Sanctuary waters. This funding is estimated to total \$50,000 per year. In addition the Sanctuary conducts aerial surveys which add to the enforcement coverage.

The Channel Islands National Park employs six full time rangers stationed on the islands. These rangers are deputized to enforce all federal, state, and county laws and regulations within one nautical mile of the shoreline. The National Park has three patrol boats stationed at the islands and primarily used for the enforcement of marine laws and regulations as well as public safety.

Research and Monitoring Efforts

Fishery-dependent information refers to data collected from fishing harvest, either from a commercial or recreational fishery. Fishery-dependent monitoring and data collection are concerned with activities that remove fish from the resource (extractive uses). These assessments will continue regardless of MPA establishment.

The Department has assessed a variety of fisheries and species through independent methods including dive, trawl, hydroacoustic, and other surveys. These efforts are expected to increase with the establishment of MPAs, however much of this may be completed by grant funded university and other researchers. The proposed regulations do not specifically require increases in Department costs.

The Sanctuary conducts a variety of ongoing monitoring programs at the Channel Islands. These include a collaborative research program, which links fishermen with scientists, aerial monitoring, habitat mapping, seabird research, kelp forest monitoring (in conjunction with the National Park), oceanographic sampling, intertidal monitoring (in conjunction with the National Park), and acoustic tracking of giant seabass. These activities are expected to continue with additional funds designated towards monitoring new MPAs.

The Channel Islands National Park also conducts a variety of monitoring programs. These include seabird monitoring, rocky intertidal monitoring, kelp forest monitoring, and ecological research. The continuation of these long-term programs not only provides a baseline of data on resource status but will allow examinations of the effectiveness of MPAs. The proposed network of reserves contains existing monitoring both within and outside MPAs.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Table 6. Summary of comments and responses from the Pre-Adoption Statement of Reasons.

Date	Type	Number	Comment	Response
02/08/02	Oral	1	Strong support for the Preferred Alternative.	Comment Noted
02/08/02	Oral	2	The science is not clear. What are the goals of the project? Can the same be accomplished with regulations?	The project goals and objectives are listed in the Initial Statement of Reasons and are in concordance with those in the Marine Life Protection Act (MLPA). These goals include providing for ecosystem biodiversity, representing habitats, helping to sustain fisheries, and providing for education, research and recreation in minimally disturbed habitats. None of these goals is addressed to the same degree with existing regulations. See also response 11 regarding science.
02/08/02	Oral	3	The Preferred Alternative is the minimum necessary.	Comment Noted
02/08/02	Oral	4	The Sportfishing Association of California prefers the no project alternative or the alternative to role the decision into the MLPA.	<p>The No Action Alternative would not achieve project goals and objectives because it would result in the continuation of current habitat and population trends. As noted in the PFMC Phase I Technical Analysis of marine reserves (Parish et al. 2001), the estimated biomass of the majority of West Coast groundfish species have long-term downward trends. This is also true for some other species. For example, since 1985, abundances of harvestable red urchins (<i>Strongylocentrotus franciscanus</i>) have declined by 1% per year at fished sites on Santa Rosa and San Miguel Islands relative to non-fished reserve sites on Anacapa Island (S. Schroeter & D. Reed, analysis of NPS data). The commercial fishery for rock crab (<i>Cancer spp.</i>) has localized effects on crab abundance and size. Crab fishing areas intensively exploited over an extended period show a lower catch-per-trip and reduced size frequency distribution compared to lightly exploited areas (Leet et al. 2001). Very little is known about the long term status of many other stocks, including certain invertebrates and nearshore rockfish. Effective management of marine fisheries must take into account uncertainties about the status of stocks and the entire ecosystem supporting them, which is an integral component of the preferred alternative as recommended by the Department. The failure to take such an approach, in the Department's view, is to compromise ongoing efforts to rebuild overfished stocks and avoid other management actions that could have dramatic negative consequences for the fisheries.</p> <p>The impacts of deferring any Commission action regarding MPAs in the Sanctuary to the ongoing MLPA process are unknown. Because this process could result in either the status quo (same as No Action) or new MPAs, it is not possible to predict potential environmental impacts. Certainly, deferral is not contemplated in the MLPA. The act, as noted in previous responses to comments, states that it is not intended to restrict any existing authority of the Department or the Commission to make changes to improve the management or design of existing MPAs or designate new MPAs. The preferred alternative falls squarely into this category.</p> <p>Deferring any action to the MLPA process could diminish the benefits and dilute the high level of local involvement and input that occurred during the planning of the preferred alternative. From a socioeconomic standpoint, the potential economic impacts to local harbors and communities – and, more importantly, to local individuals as expressed during the planning process – may be diluted by the overall economy of California. Further, an incremental approach would not necessarily avoid socioeconomic impacts to recreational fishing, but would only draw them out. Finally, the Department believes that deferring any action to the MLPA process will not achieve project goals and objectives to the same degree as the preferred alternative.</p>
02/08/02	Oral	5	Requests a change in the range of alternatives to minimize short term impacts equitably across consumptive user groups.	The Department disagrees. One of the goals of the project suggests minimizing short term impacts. This goal, however, must be balanced by the other goals of ecosystem biodiversity and sustaining fisheries. Project-related social and economic impacts, however, are not environmental impacts for purposes of CEQA. Accordingly, no economic mitigation to impacted fisheries is required. This policy issue is more appropriately addressed through the FMP process of the MLMA.
02/08/02	Oral	6	Supports the Preferred Alternative.	Comment Noted

Date	Type	Number	Comment	Response
02/08/02	Oral	7	The entire State should be looked at together. This decision should be rolled into the MLPA process.	See Comment 4
02/08/02	Oral	8	The range of alternatives should be expanded to include a map that minimizes short term impacts equitably across consumptive user groups.	See Comment 5
02/08/02	Oral	9	The Preferred Alternative is the best compromise that works.	Comment Noted
02/08/02	Oral	10	Based on the information provided the commenter cannot make a decision. The process was not all encompassing. It appears the commenter would prefer to defer decision to the MLPA process.	See Comment 4
02/08/02	Oral	11	The existing reserves in California do not support the scientific theory that MPAs will have wide spread benefits.	The Department feels this is due to the relatively small size and scope of existing MPAs. The Department rejects the implied assertion that absolute scientific certainty is necessary before the Commission takes action with respect to the preferred alternative. Neither the MLPA nor any other legal authority mandates such an approach. In fact, the MLPA expressly contemplates and requires use of the "best readily available science" and the Draft ED adheres to such a standard. In the absence of location-specific empirical evidence, scientific theory and theoretical studies form the basis of best readily available science. Because there is little location-specific empirical evidence, the best readily available science regarding the preferred alternative, alternatives and their respective effects is grounded in sound scientific theory and theoretical analysis. Moreover, one of the reasons underlying the MLPA to establish MPAs in the first place is to obtain environmental "baseline information" and "and to establish environmental reference points." For this reason, the MLPA expressly contemplates the application of "adaptive management" in areas of scientific uncertainty as a framework to adjust management actions in response to monitoring, research and data indicating the need for such changes.
02/08/02	Oral	12	The economic impact analyses overestimate potential losses, they do not account for potential benefits.	The Department disagrees that the estimates for short term economic costs are overstated and long-term benefits understated. The Draft Environmental Document for the preferred alternative clearly describes potential benefits. The June 2002 Pacific Fishery Management Council action to close fishing on the continental shelf for groundfish species will reduce the economic impacts of MPAs on groundfish fisheries in the same region. This is particularly true of the rockfish fisheries. The Department feels, however, that a complete reassessment of potential economic impacts is both infeasible and unnecessary at this time. The existing analysis is based on long term averages that would not be drastically altered by a short-term change in activities. It would also be difficult to estimate changes in use patterns because the shelf closure only recently occurred. Finally, the detailed economic analysis is provided as additional information to inform the decision makers. It is a comparative analysis of the alternatives and the socioeconomic impacts of each alternative would be reduced proportionately. Thus, the overall comparison is not likely to change. Because the shelf closure is a fisheries management regulation that may be modified or removed based on annual stock assessments, the Department does not feel the long-term benefits of the preferred alternative are altered.
02/08/02	Oral	13	Supports the no-project alternative.	The Department feels the No Action Alternative would not meet the goals and objectives of the Preferred alternative. In particular the MRWG and MLPA goals of protecting representative habitats and ecological processes, maintaining areas for cultural and natural heritage and providing for education and research within MPAs cannot be met using existing regulations. These goals require spatially explicit areas protected from all extractive use for sustained time periods which can not be provided by existing regulations. See also Response to Comment 4.
02/08/02	Oral	14	The Preferred Alternative is the minimum necessary.	Comment Noted

Date	Type	Number	Comment	Response
02/08/02	Oral	15	MPAs would take away people's right to fish.	The Department disagrees. There is no authority for the proposition that a constitutional "recreational preference" governs marine resource management decisions. The provision of the California constitution to which the commenter refers has been considered by the courts in the context of both recreational and commercial fishing. Further, the California Supreme Court has ruled that the power to regulate fishing has always existed as an aspect of the inherent power of the Legislature to regulate the terms under which a public resource may be taken by private citizens. This regulatory power applies to both recreational and commercial fishing: both the MLPA and the MLMA contemplate regulation of commercial and recreational fishing without expressing a preference for either. Nevertheless, the Draft ED and the preferred alternative do not place a higher priority on marine reserves and commercial fishing, as compared to recreational anglers. The preferred alternative, for example, includes areas where certain recreational activities (e.g., lobster diving or pelagic fishing) are allowed while commercial activities are not. In this respect, the Department is recommending this and other pro-recreational angler components of the preferred alternative because the Department believes that recreational activities in certain specific areas are not contrary to the purpose of these individual sites. Moreover, the preferred alternative is intended and designed to provide sustainable fishery and marine resources in the long term, which will necessarily benefit recreational anglers generally, including in areas outside MPAs.
02/08/02	Oral	16	If MPAs are necessary they should be small, the commenter opposes large closures.	<p>The comment reflects a desire to start small, potentially phasing in larger MPAs in the future. Phasing is discussed in the Initial Statement of Reasons for Regulatory Action and in Alternative 2 (the "Proactive Fishermen's Plan") as Attachment 8 to that document. Phasing, however, is not required by the MLPA. The act provides, in fact, that it is not intended to restrict any existing authority of the Department or the Commission to make changes to improve the management or design of existing MPAs, or to designate new MPAs. Phasing, as a result, is neither required nor prohibited by the MLPA.</p> <p>The Department is not recommending phasing of the preferred alternative to the Commission for several reasons. First, some de facto phasing occurs as a natural consequence of program implementation: first by the Fish and Game Commission (for actions in state waters), and then later, by the CINMS (for actions in federal waters). Second, phasing can occur if the Fish and Game Commission decides to implement some portions of the plan before others. Third, phasing would not alter the final impacts to the environment of the whole project, although it could delay socioeconomic impacts over time. Fourth, phasing might add another layer of complexity to the implementation of monitoring, research, and evaluation activities, as well as to the generation of baseline information. Also, phased or incremental approach to implementation would not necessarily avoid socioeconomic impacts to recreational and commercial fishing, but would only draw them out. Most importantly, delays in implementing the MPAs would delay the realization of environmental benefits flowing from such MPAs.</p>
02/08/02	Oral	17	The Preferred Alternative is the minimum necessary.	Comment Noted
02/08/02	Oral	18	Problems are being caused by pollution. The boats operating out of Ventura would be unnecessarily impacted by the proposed regulations.	The Department disagrees. Pollution is not the only cause of declines in marine resources. This is particularly demonstrated in the project area, which lies at a minimum 15 miles from the nearest point of land. While pollution is one of the impacts that are currently affecting resources, other impacts including human uses are very important. The estimated maximum potential impact to Ventura harbor is estimated at less than 3% of current ex-vessel value landed in the port. Maximum potential losses at Channel Islands harbor and Port Hueneme (also in Ventura county) are estimated to be about 3% and 10% respectively. The Department does not feel that this would unnecessarily impact vessels operating out of Ventura. In addition, potential increases in production from within the proposed MPAs are expected to defray much of this impact over time.

Date	Type	Number	Comment	Response
02/08/02	Oral	19	Nature knows best, the commenter supports alternative 5.	<p>The Department disagrees that Alternative 5 best achieves the national mandate to conserve biodiversity and establish sustainable fisheries. While none of the MPA network alternatives (the preferred alternative and Alternatives 1 through 5) is expected to have negative impacts on the environment, the preferred alternative proposes the highest number of habitats at a level of 20% or more. The SAP recommendation to include at least 30% of all habitats had to be integrated with other MPA scientific and resource-user considerations to achieve the most feasible alternative. Alternative 5 is the only alternative that exceeds the SAP's minimum recommendation for total area, but it does a poorer job of representing individual habitats. Alternative 5 only represents 11 of the 17 habitats at a level of 20% or more of which 5 are represented at 30% or more. While Alternative 5 is the only alternative that incorporates an "insurance factor", this does not mean Alternative 5 environmentally superior because, among other reasons, the distribution of MPAs in multiple areas around the islands inherently limits the impacts of single events on all reserves at once (See Draft ED at p. 5-31). Various mechanisms to reduce the chance of tanker collisions (e.g. vessel traffic separation) and to mitigate oil spills (e.g. spill response plans) also already exist and provide additional insurance.</p> <p>Conversely, while the preferred alternative is not the largest in overall area, it provides representation to the highest number of habitats at a level of 20% or more of all the alternatives. The preferred alternative represents 12 of 17 habitats used by the SAP for comparison of alternatives at a level of 20% or more, of which 5 are represented at 30% or more. The project also seeks to minimize short-term socioeconomic impacts while maintaining an ecologically viable network. By effectively including more heterogenous habitats, the preferred alternative reduces the overall area subject to the proposed MPAs and therefore achieves the goal of minimizing economic impacts to a greater extent than Alternative 5. Finally, the preferred alternative is intended to function along with other management strategies to provide for sustainable resources. The preferred alternative has a higher ratio of habitat representation per dollar impact than Alternative 5 and thus is better at minimizing cost while maximizing habitat representation (a proxy for protecting species) (See Draft ED Table 6-69 at p. 6-69). Thus, using the same bases of habitat representation as a proxy for protection of species used by the SAP, the preferred alternative is actually more likely to achieve conservation of biological diversity and promotion of sustainable fisheries than other alternatives. While the Department believes that the preferred alternative best meets all the goals, including both ecological and economic objectives, and best represents habitats, the Commission will ultimately decide whether to adopt the preferred alternative or some other alternative.</p>
02/08/02	Oral	20	Supports the Preferred Alternative.	Comment Noted
02/08/02	Oral	21	The Preferred Alternative is a vast improvement over previous MPAs. The economic analysis is not complete and should include more information on benefits.	See Comment 12
02/08/02	Oral	22	The economic analysis did not adequately cover Channel Islands harbor and no one at the harbor was ever contacted.	The Department disagrees that no one was contacted at Channel Islands Harbor. The preferred alternative is the result of a long constituent involvement process that included many opportunities for input from Ventura county fishermen and public meetings in Ventura. See Comment 18
03/02/02	Written	23	Supported Alternative 5, 34% MPAs.	See Comment 19
03/07/02	Oral	24	Supported the no project alternative.	See Comment 13
03/07/02	Oral	25	Recommended a balance of socio-economic impacts.	See Comment 5
03/07/02	Oral	26	Supports the Preferred Alternative and states that economics is not everything.	Comment Noted
03/07/02	Oral	27	Opposes MPAs	Comment Noted

Date	Type	Number	Comment	Response
03/07/02	Oral	28	Stated that most targeted species are doing okay and that more funding is needed for enforcement	The Department disagrees that most species are doing okay. For the species of interest, 4 finfish are considered overfished by the Pacific Fishery Management Council and many other finfish populations have not been formally assessed but are considered to be in downward population trends, white abalone is listed as an endangered species and black abalone is proposed for listing. In the nearshore finfish complex declines have been noted in brown rockfish, copper rockfish, olive rockfish, cabezon, surfperches, and others. The potential ecological benefits of MPAs will not be realized through other management measures. The CINMS SAC is currently using its public process to discuss potential monitoring programs, develop an MPA monitoring plan, and coordinate State and Federal enforcement agencies. The SAC will use existing MPA monitoring and enforcement, such as that occurring in Florida as examples. Both the CINMS and Channel Islands National park contribute funding to help monitor resources and enforce regulations within the project area. This unique situation allows for additional patrol time and equipment in the area to help address enforcement concerns. The Department has stationed a new 54 foot enforcement vessel in Ventura that will be dedicated to the region and a second vessel in Dana Point that will have the ability to patrol the region. All of these factors will contribute to the successful implementation of the preferred alternative.
03/07/02	Oral	29	Stated a general opposition to MPAs.	Comment Noted
03/07/02	Oral	30	Stated that pelagic species are not protected by MPAs.	MPAs provide epipelagic and migratory species with limited benefits due to their migratory nature. Epipelagic and migratory species fulfill an ecosystem role within MPAs as predators on and forage for other species. However, MPAs can contribute to achieving sustainability by providing protection to epipelagic or migratory species when they are aggregated for breeding, feeding or other purposes. In addition, MPAs do not reduce the catchability of pelagic species for the same reasons that they provide limited benefits.
03/07/02	Oral	31	Stated a general opposition to MPAs.	Comment Noted
03/07/02	Oral	32	Stated that California already has lots of MPAs and questioned how MPAs protect against other factors and events than fishing.	The Department disagrees. Existing MPAs are not adequately providing for sustainable resources. As noted in the PFMC Phase I Technical Analysis of marine reserves (Parish et al. 2001), the estimated biomass of the majority of West Coast groundfish species have long-term downward trends. For example, since 1985, abundances of harvestable red urchins (<i>Strongylocentrotus franciscanus</i>) have declined by 1% per year at fished sites on Santa Rosa and San Miguel Islands relative to non-fished reserve sites on Anacapa Island (S. Schroeter & D. Reed, analysis of NPS data). The commercial fishery for rock crab (<i>Cancer spp.</i>) has localized effects on crab abundance and size. Crab fishing areas intensively exploited over an extended period show a lower catch-per-trip and reduced size frequency distribution compared to lightly exploited areas (Leet et al. 2001). Very little is known about the long term status of many other stocks, including certain invertebrates and nearshore rockfish. Effective management of marine fisheries is being attempted in an environment where there are many unknowns and uncertainties about the status of stocks and the entire ecosystem supporting them, and where failure could prevent rebuilding of overfished stocks that could lead to endangered species listings that would have dramatic negative consequences for the fisheries.
03/07/02	Oral	33	Suggested that aquaculture has potential but is expensive and recommended conservation areas as opposed to reserves.	The Preferred Alternative suggests using conservation areas in two locations. In these specific cases, allowing certain types of take is consistent with the level of protection desired. In some cases, however, no-take MPAs are more desirable due to the level of ecosystem protection necessary. Limited take areas do not allow for complete ecosystem function to the same extent as no-take.
03/07/02	Oral	34	Stated support for the Preferred Alternative at a minimum.	Comment Noted
03/07/02	Oral	35	Stated support for the Preferred Alternative at a minimum.	Comment Noted
03/07/02	Oral	36	Stated support for the Preferred Alternative at a minimum.	Comment Noted
03/07/02	Oral	37	Stated support for the Preferred Alternative	Comment Noted

Date	Type	Number	Comment	Response
03/07/02	Oral	38	Stated a general support for MPAs.	Comment Noted
03/07/02	Oral	39	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	40	Stated support for the Preferred Alternative at a minimum.	Comment Noted
03/07/02	Oral	41	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	42	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	43	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	44	Stated support for the Preferred Alternative at a minimum.	Comment Noted
03/07/02	Oral	45	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	46	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	47	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	48	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	49	Stated a concern that the Preferred Alternative may have adverse environmental impacts. Supported 12%, no-action, or deferring to the MLPA.	See Comments 4 and 13 regarding no-action and deferral. Alternatives 1, 2, and 3, while less likely to meet the goals and objectives of the preferred alternative, would not likely result in negative environmental impacts. Because each of these alternatives increases the area currently protected in MPAs, they would have at least minor localized benefits. Alternative 1 is not expected to meet the goals of sustaining resources or representing habitats. Certain critical habitats are excluded from this alternative and there is no representation in the far eastern side of the Islands. Similarly, Alternatives 2 and 3 lack certain critical habitats and do not adequately represent most habitats. The Commission will ultimately decide whether to adopt the preferred alternative or some other alternative.
03/07/02	Oral	50	Stated the Preferred Alternative would have too large an impact on squid fishing.	The Department disagrees. The maximum potential impact to squid fishing estimated in the socioeconomic analysis is less than 13%. This reflects the consideration for critical fishing areas, such as the southeast side of Santa Cruz Island, taken in the project development. The socioeconomic analysis also suggests that some of this potential impact can be replaced through fishing in different locations.

Date	Type	Number	Comment	Response
03/07/02	Oral	51	Stated that other fisheries management techniques were enough and need time to work.	<p>See Comment 28. In enacting the MLMA in 1998, the Legislature identified objectives that facilitate the primary fishery management goal of sustainability to include the maintenance, restoration and enhancement of marine fishery habitat, but also expressly identified other conservation and management measures. In enacting the MLPA in 1999, the Legislature expressly recognized that MPAs and sound fishery management are complementary components of a comprehensive effort to sustain marine habitats and fisheries. MPAs are considered one of many tools available to fisheries managers and are not the only tool used in the project area. However, certain ecosystem functions of MPAs can not be provided by other management measures. For example, size, season, and bag limits, do not prevent bycatch of non-target species or undersized individuals nor do they fully provide for natural predator and prey interactions. It is clear that traditional management measures alone have not been sufficient to protect groundfish and other populations. Incidental impacts of various fishing practices may also have unintended effects that would not occur in an MPA, particularly a no-take reserve. This includes both direct impacts to the environment (e.g., damage to a reef from trawling) and indirect ecosystem impacts (e.g., removing all large, old individuals and altering the size composition). MPAs by their nature provide for undisturbed habitats and act as "natural hatcheries". These facts lead to benefits in total production and export of young. The Department believes MPAs are an important and necessary component of the preferred alternative.</p> <p>In addition to fisheries-related goals, the preferred alternative is intended to address ecological goals including representing habitats and species for their intrinsic values. MPAs provide insurance for management uncertainty by providing areas where species can interact in a relatively undisturbed ecosystem. The preferred alternative contemplates the coordination of MPAs with other management measures to complete the regulatory. Fisheries management issues involving specific measures are more appropriately addressed through the FMP process. The preferred alternative attempts to address a specific set of goals and objectives, including, but not limited to, objectives to help sustain fisheries. The specific integration of MPAs into fisheries management, including reductions in overall fleet capacity, total allowable catch, and allocation between user groups is more appropriately dealt with through the FMP process. FMPs are the tool used to establish these limits. The Nearshore FMP, for example, includes the use of MPAs in the management strategy.</p>
03/07/02	Oral	52	Stated the Preferred Alternative would have too large an impact on squid fishing.	See Comment 50
03/07/02	Oral	53	Stated a general opposition to MPAs.	Comment Noted
03/07/02	Oral	54	Stated that benefits need to be proven prior to moving forward.	See Comment 11
03/07/02	Oral	55	Stated that there was not a problem in the area and that no scientific evidence to support closures existed.	See Comment 11
03/07/02	Oral	56	Stated that MPAs would provide the needed scientific information and insurance against other management uncertainty.	See Comment 11, The Department agrees that MPAs would provide these functions.
03/07/02	Oral	57	Stated support for the Preferred Alternative.	Comment Noted
03/07/02	Oral	58	Supported a network that minimizes economic impacts. Supported the 12% map (Alternative 1). He stated that Alternatives 1 and 3 have an unbalanced impact in the West end and that phasing should be considered.	See Comment 49. The commenter seems to recommend full habitat protection throughout the Islands, to balance impacts to the east and west. The comment seems to support the concept used in developing the Preferred alternative and larger alternatives to ensure habitat representation throughout the island chain. It also supports the Department's rationale for not choosing Alternatives 1, 2, or 3 due to their lack of complete habitat representation.
03/07/02	Oral	59	Stated support for no-action.	See Comment 13
03/07/02	Oral	60	Stated a general opposition to MPAs.	Comment Noted

Date	Type	Number	Comment	Response
03/07/02	Oral	61	Stated that traditional management measures were successful and MPAs are unnecessary.	See Comment 51
03/07/02	Oral	62	Stated that MPAs will lead to businesses closing and that existing measures work.	The Department does not feel that losses in income related to the Preferred Alternative will necessarily lead to businesses closing. The estimated impact to employment from the Preferred Alternative is expected to be a maximum of 296 jobs. These jobs may be replaced from other sources as well as potential benefits of sustainable fisheries. See also Response to Comment 51 regarding existing measures.
03/07/02	Oral	63	Stated that MPAs would lose support if their benefits were not demonstrated. He Supported using buffer zones of conservation areas around MPAs (similar to Alternative 2).	See Comment 49
03/07/02	Oral	64	Stated that commercial fishermen take more than sport and that the decision should be deferred to the MLPA.	The Department disagrees. While it is true that commercial fishing takes the majority of fish (by weight) of all species combined, recreational anglers also have an impact. The breakdown of catch is, in fact, much more even when looking at individual species, especially in the nearshore environment. For instance, recreational anglers take approximately 60% of all nearshore finfish (based on average landings 1994-1998). In addition, recreational anglers tend to target larger "trophy" fish that can provide significantly more reproductive potential to a population. See Comment 4 regarding deferral.
03/07/02	Oral	65	Opposed all closures	Comment Noted
03/07/02	Oral	66	Stated that the Department needs to address the enforcement issue.	See Comment 28
03/07/02	Oral	67	Stated a support for Alternative 2.	See Comment 49
03/07/02	Oral	68	Stated that there is no evidence that MPAs would improve fishing. He supported no action, folding into the MLPA, or 12%.	See Comments 4, 11, 13, and 49
03/09/02	Written	69	Supported Alternative 5, 34% MPAs.	Se Comment 19
4/3/2002	Written	70	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	71	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	72	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	73	The scientific literature supports the range of set aside suggested in the Preferred Alternative.	Comment Noted
04/04/02	Oral	74	Scientist warn about ecological disaster, supports Preferred Alternative.	Comment Noted
04/04/02	Oral	75	The Preferred Alternative is the minimum necessary.	Comment Noted
04/04/02	Oral	76	The Preferred Alternative is the minimum necessary.	Comment Noted
04/04/02	Oral	77	Supported the no-project alternative and deferring decision to the MLPA.	See Comment 4 and 13

Date	Type	Number	Comment	Response
04/04/02	Oral	78	MPAs do not work well as a fisheries management tool. They should be secondary to traditional measures.	See Comment 51
04/04/02	Oral	79	Recreational anglers are not the problem. They take only 3% of the catch compared to commercial.	See Comment 64
04/04/02	Oral	80	Though 50% is scientifically supported, 25% is now on the table. This is not sufficient to provide necessary protection.	See Comment 19
04/04/02	Oral	81	Other methods should be used first, like seasons, size limits and bag limits.	See Comment 51
04/04/02	Oral	82	Supported reserves, though to a lesser extent than in the Preferred Alternative. Suggested 15% which is similar to Alternative 2.	See Comment 49
04/04/02	Oral	83	The Commission should start small and take a progressive approach. MPAs are not needed at the level suggested.	See Comment 16
04/04/02	Oral	84	The Commenter showed video tape of decaying kelp and suggested that the environmental problems in the project area are the result of the Pac Baroness oil and copper spill.	The Department disagrees with the commenter's conclusion that the Copper concentrate contained in the wreck of the Pac Baroness is resulting in widespread environmental impacts. The Pac Baroness sank on September 21, 1987 after collision with another vessel. The Pac Baroness spilled oil and powdered copper concentrate and sank with additional copper in her holds. Initial concerns were raised over the toxicity of copper to many marine organisms. The copper concentrate carried by the Pac Baroness is relatively insoluble, and NOAA scientists predicted toxicity problems would be localized. Seafloor samples taken shortly after the spill showed significant decreases in fauna directly adjacent to the wreck site but not farther away (See Hyland, et al. 1989). A survey of the wreck conducted this year showed that both vertebrate and invertebrate life is abundant both near the wreck and directly on the ship's decks and sides (CINMS 2002).
04/04/02	Oral	85	Supports the no-project alternative and stated that MPAs are not necessary.	See Comment 13
04/04/02	Oral	86	Supported large MPAs in general.	Comment Noted
04/04/02	Oral	87	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	88	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	89	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	90	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	91	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	92	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	93	Supported the Preferred Alternative	Comment Noted
04/04/02	Oral	94	Supported the Preferred Alternative and suggested that the Commission not cut farther back than that.	Comment Noted
04/04/02	Written	95	Stated that recreational anglers supported the country by using fish to feed firefighters and rescue workers in New York. Opposed MPAs in general.	Comment Noted
04/04/02	Oral	96	Traditional measures work as well if not better than MPAs. Results from other areas do not take into account existing fisheries management.	See Comment 51

Date	Type	Number	Comment	Response
04/04/02	Oral	97	The Pac Baroness should be looked into as a possible cause for decline. Some reserves have only big fish and no little fish, because the big fish eat all the little fish causing a decline in populations.	See Comment 84. Changes in the trophic structure within MPAs are to be expected. As areas return to a more natural state, certain species will decline in abundance. This change is expected and will potentially have positive impacts on the abilities of various species to sustain themselves. A good example of this is seen in the existing Anacapa Island Ecological Reserve Natural Area. Within this no take MPA, purple sea urchin abundance is lower than outside, yet lobster, sheephead and giant kelp abundances are higher.
04/04/02	Oral	98	Supported the no-project alternative and stated that MPAs do not allow for the study of long range trends.	See Comment 13
04/04/02	Oral	99	Supported the minimal closure, Alternative 1, and did not want to have the right to fish revoked.	See Comments 15 and 49.
04/04/02	Oral	100	Supported the "pro-active fishermen's plan", Alternative 2.	See Comment 49
04/04/02	Oral	101	Recommends that whatever option is chosen, phasing based on both administrative and monitoring performance be used to implement. In addition the decision should be made prior to the MLPA.	The Department agrees that a decision should be made prior to the MLPA. See Response to Comment 16 regarding phasing.
04/04/02	Oral	102	Supported the Preferred Alternative.	Comment Noted
04/04/02	Oral	103	Supported the Preferred Alternative.	Comment Noted
04/04/02	Oral	104	Supported the Preferred Alternative.	Comment Noted
04/04/02	Oral	105	Stated that there is a need for monitoring in order to be able to determine the difference between MPA effects, natural cycles and fishing effects.	<p>The Department believes that adequate organizational resources exist to manage, monitor, and report on MPAs in the preferred alternative. The MLPA, with which this project must be consistent, expressly contemplates "management and enforcement measures[.]" as well as provisions for "monitoring, research, and evaluation" as program components. The Channel Islands region is unique California in that the area has benefitted, currently benefits, and is expected to continue benefitting from the resources and coordinated efforts of multiple State and federal agencies. Through existing and new MOUs the Department, CINMS, and Channel Islands National Park will assist in monitoring, enforcement, and management of these areas. Existing monitoring projects will continue to provide data on changes in various species abundances in the region. These programs will contribute to the ability of the various agencies to provide adequate monitoring. Interagency coordination will also result in more efficient use of Department resources. Department enforcement staff will develop an enforcement plan in cooperation with other public agencies where existing MOUs are in place to coordinate such efforts. Some of these agencies also provide funding through the MOUs, including the CINMS, Channel Islands National Park, NOAA Fisheries, and the United States Coast Guard. In addition to research by State and Federal agencies, other research organizations and institutions (e.g., University of California, California State Universities, and California Sea Grant Extension Program) will likely also provide research, monitoring and evaluation opportunities.</p> <p>The MRWG also made recommendations on monitoring, management, and enforcement of MPAs. The CINMS SAC is currently using its public process to discuss potential monitoring programs, develop an MPA monitoring plan, and coordinate State and Federal enforcement agencies. The SAC will use existing MPA monitoring and enforcement, such as that occurring in Florida as examples. Both the CINMS and Channel Islands National park contribute funding to help monitor resources and enforce regulations within the project area. This unique situation allows for additional patrol time and equipment in the area to help address enforcement concerns. The Department has stationed a new 54' enforcement vessel in Ventura that will be dedicated to the region and a second vessel in Dana Point that will have the ability to patrol the region. All of these factors will contribute to the successful implementation of the preferred alternative.</p>

Date	Type	Number	Comment	Response
04/04/02	Oral	106	Stated that increases within California reserves were not due to the reserves, but to natural cycles and that crowding didn't occur because the reserves were too small.	The Department disagrees. If the increases within existing MPAs were due to natural cycles, similar increases would be seen in areas outside MPAs. Empirical data from studies on existing MPAs do not show this. In the project area, for example, the Anacapa Island Ecological Reserve Natural Area various species have higher abundances than in fished areas nearby (S. Schroeter & D. Reed, analysis of NPS data). The Department does not expect congestion of effort outside the proposed MPAs to lead to negative environmental impacts. Effort is concentrated around existing MPAs, particularly for trap fisheries. This concentration has not led to negative impacts.
04/04/02	Oral	107	Reserves do not provide insurance. They only take away area.	The Department disagrees. The commenter compares the idea of insurance to that of auto insurance that pays back an affected party after an accident. In this case, insurance is seen as a precaution against management uncertainty. By protecting percentages of various habitats, portions of populations are necessarily protected and thus provide insurance against declines that may occur if management measures outside MPAs do not provide adequate protection. In addition, MPAs provide benefits outside their boundaries and do not simply take area away. The scientific data on MPAs show that increases in abundance within closed areas lead to significant increases in reproductive potential. The key question is whether the expected increase in export from reserves can compensate for the increased fishing pressure in non-reserve areas. If it does, fishery yields will show a net increase. The comprehensive reviews of reserves by Halpern (2002) and Palumbi (2002), suggest that production increases inside reserves are considerably larger than expected increases in take. In the case of the preferred alternative, 100% of the effort would be limited to approximately 81% of the area (with a 19% closure). The empirical data in these studies suggest that enhanced production within reserves can more than compensate for the effects of congestion outside for reserve areas as high as 50%. These conclusions are supported by empirical data outside reserves. Studies consistently show increases in species immediately outside reserves (e.g., Roberts et al. 2001; Stevens and Sulak 2002; Murawski et al. 2000; McClanahan and Kaunda-Arara 1996; Ratikin and Kramer 1996; and Russ and Alcala 1996b).
04/04/02	Oral	108	This should not be an issue of non-consumptive versus consumptive users as it is presented.	The Department disagrees that the issue is being presented as one of allocation. MPAs are not intended to allocate resources between groups, that is more appropriately accomplished through the Fishery Management Plan Process. The intent of MPAs is to provide for long-term sustainability of resources and to allow for study and recreation in minimally disturbed habitats. Both of these would result in benefits to both consumptive and non-consumptive users through a more stable environment and more scientific data available to managers.
04/04/02	Oral	109	Stated that this is an attempt to close random areas and limit oil drilling. It will force us to buy more oil overseas.	The Department disagrees. The project area is within the Channel Islands National Marine Sanctuary. New oil leases, drilling, and exploration are prohibited within Sanctuary waters. The Preferred Alternative would not alter that regulation.
04/04/02	Oral	110	Stated that fishermen are not the problem, but decreases were due to increased sea lion predation.	The Department disagrees that declines in marine resources are due to sea lion predation alone. While increases in marine mammal populations are listed in the Initial Statement of Reasons as one cause for changes, other human related impacts, including fishing do play a role. This is noted by the fact that certain species not preyed on by sea lions have declined as well. This includes many invertebrates as well as some finfish.
04/04/02	Oral	111	Stated that many fisheries are healthy and there is not a problem.	See Comment 28
04/04/02	Oral	112	Stated that closing 20% of the area is actually removing 80% of the fishable area.	The Department disagrees. In the socioeconomic analysis, the Preferred Alternative has a maximum potential impact of between 2.8% and 16.5% for commercial fisheries and between 11.5% and 24.6% for recreational fisheries. This analysis is based on data provided by consumptive users. Overall, the Preferred Alternative does a good job of representing habitats at more than 20%, while impacting fished areas at less than 20%. If 80% of the fishable area was encompassed, these maximum potential impacts would necessarily be higher.

Date	Type	Number	Comment	Response
04/04/02	Oral	113	Asked which fish stocks were overfished and stated that existing management was sufficient.	See Comment 28
04/04/02	Oral	114	Need to have adequate funding and enforcement to make this plan work.	See Comment 28
04/04/02	Oral	115	Stated that the Department should count bycatch when estimating total catch.	The Department agrees with this comment. Bycatch estimates are currently used when estimating total annual catch for species with annual quotas or Total Allowable Catch.
04/04/02	Oral	116	Stated that we don't know MPAs will work because we don't have something in place to compare to. Suggested that the Commission start small and see if the expected results occur.	See Comment 16
04/04/02	Oral	117	Stated that only true, empirical science should be used, not theoretical science.	See Comment 11
4/22/2002	Written	118	Supported the Preferred Alternative	Comment Noted
4/29/2002	Written	119	supports option 5 - 34% of waters	See Comment 19
5/1/2002	Written	120	supports preferred alternative	Comment Noted
5/3/2002	Written	121	Hold to planned August 2nd decision date and make the preferred alternative a reality.	Comment Noted
5/25/2002	Written	122	supports option 5	See Comment 19

Date	Type	Number	Comment	Response
08/01/02	Oral	123	Asked the Commission to look at cumulative impacts of State and Federal actions on economics of other regulations as well as Marine Protected Areas.	<p>The Department examined potential cumulative impacts when developing the preferred alternative. The Cowcod Conservation Areas were addressed in the preferred alternative, including a recommendation to reopen a portion of the area. The Pacific Fisheries Management Council's recent shelf closures occurred as an emergency action after the publication of the Initial Statement of Reasons. In the Department's view, the MLPA, Cowcod Conservation Areas, and shelf closures will not render the preferred alternative's incremental change to the existing physical conditions in and around the project area cumulatively considerable under CEQA. Moreover, the adaptive management component of the preferred alternative, as required by the Marine Life Protection Act, which includes ongoing monitoring, research and evaluation after project approval, will provide ongoing information regarding post-approval environmental conditions. This information, along with the Department's authority to recommend additional management measures to the Commission, will ensure that approval of the preferred alternative does not result in any significant cumulative impacts.</p> <p>The commenter's cumulative impacts contention rests on the notion that the MLPA, Cowcod Conservation Areas, and shelf closures are "reasonably foreseeable" under existing case law and that these projects must be included in the cumulative impacts analysis pursuant to CEQA Guidelines section 15130. (See Cal. Code Regs., tit. 14, Section 15130.) The provision of the guidelines cited by the commenter, however, governs cumulative impact analyses in environmental impact reports, as opposed to environmental documents prepared pursuant to a certified regulatory program. Where an agency proceeds under CEQA by way of a certified regulatory program – such as the Commission in the present case – it need not prepare a cumulative impact analysis precisely as set forth in section 15130. Instead, an agency acting pursuant to a certified regulatory program must "consider" the prospect of significant project-related cumulative impacts where relevant, although it need not prepare an "analysis as such." (Laupheimer v. State of California (1988) 200 Cal.App.3d 440, 462, 466; see also "Discussion" following CEQA Guidelines, Section 15252.) In this respect, the Department believes that the Draft Environmental Document includes meaningful consideration and assessment of potential project-related cumulative impacts, and that the analysis is adequate under CEQA, particularly where substantial evidence supports the conclusion that the preferred alternative will not result in significant cumulative impacts.</p>
08/01/02	Oral	124	Sport fishing only takes 3 to 6% of the total compared to commercial. Fisheries like trawl should be eliminated and we wouldn't need closures. Traditional management including size limits and slot limits would be better.	See Comments 51 and 64
08/01/02	Oral	125	The commenter submitted several scientific papers that he felt supported Alternative 2 and the concept of holistic management.	See Comment 49

Date	Type	Number	Comment	Response
08/01/02	Oral	126	The commenter expressed concern for the disproportionate impact to individual fisheries, in particular the rock crab fishery.	The Department does not feel that displaced effort in the red crab fishery will result in negative impacts to the environment. The commenter refers to "fisheries" in the context of commercial fishing or harvesting populations of marine fish. The Department disagrees that mitigation to such fisheries is required. "Mitigation" referenced in the Draft ED is in relation to environmental impacts to the resource, not the socioeconomic activities related to that resource. The commenter suggests that the two areas where the red rock crab fishery takes place are the Santa Cruz channel between Santa Rosa and Santa Cruz Islands and the North side of San Miguel Island. The maximum potential economic impact to the crab fishery for the preferred alternative is estimated at 14.8% of annual income; 5% of this economic impact is generated within the proposed Carrington Point State Marine Reserve on Santa Rosa Island. This estimate is based on input received from fishermen in the project area. Particular areas, such as the offshore area to the northeast of San Miguel Island and within the Santa Cruz Channel east of Santa Rosa Island, were excluded in order to reduce potential economic impacts to this fishery as suggested by user groups. According to the "exclusion zones" maps developed by commercial fishermen in the socioeconomic survey, the most valuable locations also include the south side of San Miguel and Santa Rosa Islands (Leeworthy and Wiley 2002). In addition, they show that the most valuable areas are farther east in the Santa Cruz channel than the MPAs proposed for that area. According to Department landing data, rock crab is caught in all blocks surrounding the northern Channel Islands. Nearly 80% of this is caught on the north side of Santa Rosa Island and the South Side of San Miguel Island. Less than 2% is caught on the north side of San Miguel Island.
08/01/02	Oral	127	Cape Canaveral experience shows that closed areas have very positive impact on recreational fishing.	The Department agrees with this comment.
08/01/02	Oral	128	Even though there is no fishing allowed for Abalone they haven't recovered. This is proof that MPAs do not work.	The Department disagrees. The commenter is referring to a fisheries management measure that prohibits the take of abalone. This type of species specific regulation can not replicate the entire ecosystem protection provide by an MPA. It is, in fact, a good example of why single species protection may not function equally for the goal of rebuilding depleted stocks. Other species that interact with abalone, such as sea urchins and sheephead, are still taken in locations where abalone are protected. The interactions between all these species can not occur in an undisturbed manner unless all are protected. MPAs may, in fact, provide additional benefits that do not currently occur.

In addition, comments were received regarding the Draft Environmental Document for the preferred alternative. These comments are attached here as Volume II of the Final Environmental Document for Marine Protected Areas in NOAA's Channel Islands National Marine Sanctuary.

Updated Informative Digest (Policy Statement Overview)

Existing regulations establish three ecological reserves (at Anacapa, San Miguel, and Santa Barbara islands) with three invertebrate closures (two at Anacapa and one at Santa Barbara Island) (subsections (b)(5), (b)(101) and (b)(102) of section 630, Title 14, California Code of Regulations(CCR)).

The regulations as adopted will repeal these existing reserves in section 630, Title 14, CCR and re-designate them as part of new section 632 Title 14, CCR. Existing regulations on activities in the ecological reserves, other than the invertebrate closures, will be maintained in the new designations.

The regulations as adopted will create: ten (10) new State Marine Reserves, where it will be unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a permit or specific authorization from the Commission for research, restoration, or monitoring purposes; one (1) State Marine Conservation Area where only the recreational take of spiny lobster (*Panulirus interruptus*) and pelagic finfish will be allowed; and one (1) State Marine Conservation Area where the commercial and recreational take of spiny lobster and the recreational take of pelagic finfish will be allowed. These areas comprise approximately 20.5 percent of the waters within the Channel Islands National Marine Sanctuary. For the purposes of these regulations, pelagic finfish is defined as: anchovy, barracuda, blue shark, dolphinfish, herring, mackerels, mako shark, marlin*, salmon, sardine, swordfish, thresher sharks, tunas, and yellowtail (*marlin is not allowed for commercial take).

These new Marine Protected Areas (MPAs) are within NOAA's Channel Islands National Marine Sanctuary which includes the northern Channel Islands (Anacapa, Santa Cruz, Santa Rosa, and San Miguel) and Santa Barbara Island from the shoreline to a distance of 6 nautical miles offshore. Each reserve will eventually include some areas outside state waters. The areas within state waters (from 0 to 3 nautical miles offshore) were adopted in this proposal as an initial phase. For the areas outside state waters, NOAA has indicated its intent to pursue establishment of marine reserves in coordination with NOAA Fisheries, the Pacific Fishery Management Council, and the Sanctuary. The goal is to complement the State action by completing the marine reserve network in the Sanctuary.

In the Initial Statement of Reasons, the Department's preferred alternative incorrectly stated that eleven (11) new State Marine Reserves would be established, but correctly identified one (1) State Marine Conservation Area where only the recreational take of spiny lobster (*Panulirus interruptus*) and pelagic finfish would be allowed, and one (1) State Marine Conservation Area where the commercial and recreational take of spiny lobster and the recreational take of pelagic finfish would be allowed.

Subsection (b) of Section 630, Title 14, CCR, is amended to read:

(b) Areas and Special Regulations for Use:

(1) Abalone Cove Ecological Reserve, Los Angeles County.

(A) Fishing is permitted for fin fish (those having vertebrae) only, from boats as well as from shore. Spear guns may be used for the taking of fin fish.

(B) Swimming, surfing, boating, skin and SCUBA diving are permitted.

(2) Albany Mudflats Ecological Reserve, Alameda County.

(3) Alkali Sink Ecological Reserve, Fresno County.

(A) Grazing is permitted under a permit from the department.

(4) Allensworth Ecological Reserve, Tulare County.

(A) Grazing shall be allowed under permit from the department.

(B) Hunting shall be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

~~(5) Anacapa Island Ecological Reserve, Ventura County.~~

~~(A) Except as specifically prohibited under this section, boating, sport and commercial fishing, spearfishing, swimming and diving with underwater breathing apparatus are permitted within the ecological reserve which extends one mile from the nearest point of land of east, middle and west island(s) commonly referred to as Anacapa Island.~~

~~(B) A natural area is hereby established from the mean high tide mark seaward to a water depth of 10 fathoms (60 feet) on the north side of East Anacapa Island between a line extending 345 magnetic off the westernmost point and a line extending 75 magnetic off the easternmost point. It is unlawful to take or possess any native plant, fish, wildlife, aquatic organism or disturb any natural geological feature within the described natural area.~~

~~(C) No invertebrates may be taken from within the following areas:~~

~~1. The mean high tide mark to a water depth of 20 feet on the south side of West Anacapa Island between a line extending 145 magnetic off the National Park Service Monument at the southernmost point, adjacent to and excluding Cat Rock, and a line extending 220 magnetic off the National Park Service Monument at the easternmost point near Frenchy's Cove.~~

~~2. The mean high tide mark to a water depth of 20 feet on the north side of Middle Anacapa Island between a line extending 345 magnetic off the National Park Service monument at Key Hole Arch Point to a line extending 345 off the westernmost point of East Anacapa Island at the western boundary of the natural area off Anacapa Island.~~

~~(D) No net or trap may be used in waters less than 20 feet deep off the Anacapa Islands commonly referred to as Anacapa Island.~~

~~(E) A brown pelican fledgling area is designated from the mean high tide mark seaward to a water depth of 20 fathoms (120 feet) on the north side of West Anacapa Island between a line extending 345 magnetic off Portuguese Rock to a line extending 345 magnetic off the western edge of Frenchy's Cove, a distance of approximately 4,000 feet. No person except as provided in subsection (a)(10), and employees of the National Park Service in the performance of their official duties shall enter this area during the period January 1 to October 31.~~

~~(F) No person shall fire or discharge any firearm or explosive devices, air or gas gun within the ecological reserve.~~

~~(G) Harvesting of kelp from within this reserve shall be prohibited except under a permit issued by the department.~~

~~(6)~~(5) Apricum Hill Ecological Reserve, Amador County.

(A) No person, except as provided in subsection (a)(10), shall enter the reserve.

~~(7)~~(6) Atascadero Creek Marsh Ecological Reserve, Sonoma County.

~~(8)~~(7) Bair Island Ecological Reserve, San Mateo County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve during the period February 15 through May 20.

(B) Waterfowl shall be taken in accordance with the general waterfowl regulations.

~~(9)~~(8) Baldwin Lake Ecological Reserve, San Bernardino County.

(A) All fishing is prohibited.

(B) Waterfowl and upland game hunting shall be allowed in accordance with the general hunting

regulations. Waterfowl hunting shall be permitted from boats only, and in accordance with general waterfowl hunting regulations and pursuant to the provisions of Section 551, Title 14, CCR.

(C) Boating is permitted for the purpose of waterfowl hunting only. Boats may be launched and retrieved in designated areas only.

~~(40)~~(9) Batiquitos Lagoon Ecological Reserve, San Diego County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purpose of the reserve.

(B) San Diego County, after consultation with the department, may carry out management activities necessary for fish and wildlife management, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

~~(41)~~(10) Blue Ridge Ecological Reserve, Tulare County.

(A) Grazing shall be allowed under permit from the department.

(B) Hunting and trapping shall be permitted in accordance with the general hunting and trapping regulations, but only at such times and in specific areas as designated by the department. Trapping may only be done under permit from the department.

~~(42)~~(11) Blue Sky Ecological Reserve, San Diego County.

~~(43)~~(12) Bobelaine Ecological Reserve, Sutter County.

(A) No person, except as provided in subsection (a)(10), employees of the National Audubon Society or employees of the Department of Water Resources, in the performance of their official duties or those persons possessing written permission from the area manager, may enter the reserve for any purpose.

(B) All fishing is prohibited.

(C) The area manager may issue permits to conduct biological research projects and may restrict the use of boats, vehicles and other motorized equipment within the reserve. Such projects and use shall be compatible with the primary purposes of the reserve.

(D) The Audubon Society may carry out operation and management activities necessary for fish and wildlife management, flood control, vector control and public access. Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

~~(44)~~(13) Boden Canyon Ecological Reserve, San Diego County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

~~(45)~~(14) Boggs Lake Ecological Reserve, Lake County.

~~(46)~~(15) Bolsa Chica Ecological Reserve, Orange County.

(A) No person, except as provided in subsection (a)(10), or employees of Signal Corporation and its invitees, for the purposes of carrying out oil and gas operations, shall enter this reserve and remain therein except on established trails, paths or other designated areas.

(B) Fishing shall be permitted at designated areas around outer Bolsa Bay only.

(C) Horses are prohibited from entering the reserve.

(D) Pets are prohibited from entering the reserve except when they remain inside a motor vehicle.

(E) No person shall enter this reserve between 8:00 p.m. and 6:00 a.m.

(F) Motor vehicles are prohibited between 8:00 p.m. and 6:00 a.m.

(G) Vehicle parking is for reserve visitors' use only.

(H) The County of Orange, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

~~(47)~~(16) Bonny Doon Ecological Reserve, Santa Cruz County.

~~(48)~~(17) Buena Vista Lagoon Ecological Reserve, San Diego County.

(A) The County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(B) Fishing is allowed until 12 midnight.

~~(19)~~(18) Butler Slough Ecological Reserve, Tehama County.

(A) Livestock grazing may be allowed under permit from the department.

(B) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled livestock grazing, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

~~(20)~~(19) Butte Creek Canyon Ecological Reserve, Butte County.

(A) Motor vehicle use in the Reserve is prohibited except by Department personnel, law enforcement officers or firefighters in response to public safety or health hazards.

(B) Horses are prohibited.

(C) Fishing by boat or other flotation device within the Reserve and in the main channel of Butte Creek is permitted only from February 1 through April 30. Only hand-carried boats or flotation devices may be launched and operated.

(D) The use, application or deposition in any form of toxic substances is prohibited unless authorized by the Commission.

~~(21)~~(20) Butte Creek House Ecological Reserve, Butte County.

(A) Motor vehicle use is prohibited except by Department personnel, law enforcement officers, or firefighters in response to public safety or health hazards.

(B) The use, application or deposition in any form of toxic substances is prohibited unless authorized by the Commission.

~~(22)~~(21) Buttonwillow Ecological Reserve, Kern County.

(A) Grazing may be allowed under permit from the department.

(B) Hunting may be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

~~(23)~~(22) By-Day Creek Ecological Reserve, Mono County.

(A) All fishing is prohibited.

(B) Hunting shall be permitted in accordance with general hunting regulations.

~~(24)~~(23) Calhoun Cut Ecological Reserve, Solano County.

(A) No person, except as provided below and in subsection (a)(10), shall enter this reserve.

(B) Hunting for waterfowl is allowed only from a boat on waters of the main channel of Calhoun Cut and its tributaries, accessible only from Lindsey Slough and subject to the general hunting regulations and the provisions of subsection (a)(10), related to the protection of wildlife, aquatic life and habitat.

(C) Fishing is allowed only from a boat on waters of the main channel of Calhoun Cut and its tributaries, accessible only from Lindsey Slough and subject to the general sport fishing regulations and the provisions of subsection (a)(10), related to the protection of wildlife, aquatic life and habitat.

(D) Grazing may be allowed under permit from the Department.

~~(25)~~(24) Canebrake Ecological Reserve, Kern County.

(A) Notwithstanding the provision of subsection (a)(15), grazing may be allowed under permit from the department.

(B) Firearms, archery equipment, and hunting dogs, either on leash or in a vehicle, may be possessed only by licensed hunters only at such times and in specific areas as designated by the department.

(C) Fishing may be allowed only in those specific areas designated by the department.

(D) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6), and (12), the department may issue permits to conduct biological or archaeological research. Such research shall be compatible with the primary purpose of the reserve.

(E) Notwithstanding the provisions of subsection (a)(18), only those animals assisting visually impaired or disabled persons are permitted.

(F) Notwithstanding the provisions of subsection (a)(7), equestrian use may be allowed, but only in specific areas designated by the department.

~~(26)~~(25) Carlsbad Highlands Ecological Reserve, San Diego County.

~~(27)~~(26) Carmel Bay Ecological Reserve, Monterey County.

(A) Sport fishing with hook and line, spear gun or hand-held implements shall be permitted from boats as well as from shore. No invertebrates may be taken, possessed or destroyed.

(B) Swimming, boating, surfing, skin and SCUBA diving are permitted.

(C) Within Stillwater Cove kelp may be removed at any time to allow the passage and mooring of boats

between Pescadero Rocks and Arrowhead Point.

(D) If, at any time, the director of the department finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of any food for fish or wildlife, the director shall serve on every person licensed to harvest kelp a 48-hour advance, written notice that the kelp bed, or a part thereof, will be closed to the harvesting of kelp for a period not to exceed one year. After service of such a notice the person upon whom notice is served may appeal to the commission for a hearing to reopen the kelp bed or part thereof.

(E) Not more than five percent (5%) of the total weight of kelp harvested in any one day shall consist of *Nereocystis* (bull kelp).

(F) Any licensed person or company intending to harvest kelp within the ecological reserve shall give the department's regional manager of the Marine Resources Region, or his designee, at least 48-hours oral notice of the intention to harvest. At the option of the department, an observer selected by the department may accompany the harvester during such a harvesting.

(G) Not more than 50 percent of the kelp within Bed 219 shall be harvested in any four-month period.

~~(28)~~(27) Carrizo Canyon Ecological Reserve, Riverside County.

(A) No person, except as provided in subsection (a)(10), and employees of the Bureau of Land Management in the performance of their official duties shall enter this reserve during the period June 15 to September 30.

(B) The County of Riverside may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

~~(29)~~(28) Carrizo Plains Ecological Reserve, San Luis Obispo County, including the Elkhorn Plain Unit.

(A) Hunting shall be allowed in accordance with the general hunting regulations and only at such times and in such places as designated by the Department.

(B) Target shooting is permitted in designated areas.

(C) Notwithstanding the provisions of subsection (a)(15), grazing may be allowed under permit from the department.

(D) Notwithstanding the provisions on subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research or monitoring compatible with the purposes of the reserve.

~~(30)~~(29) China Point Ecological Reserve, Siskiyou County.

(A) No person, except as provided in subsection (a)(10) and employees of the U.S. Forest Service in the performance of their official duties, shall enter this reserve during the period February 15 through July 31.

(B) Fishing shall be permitted from boats as well as from shore; boats may be launched and operated in the Klamath River.

(C) Hunting shall be allowed in accordance with the general hunting regulations and subject to subsection ~~(30)~~(A) above.

~~(31)~~(30) Clover Creek Ecological Reserve, Shasta County.

(A) Livestock grazing may be allowed under permit from the department.

(B) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled livestock grazing, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

~~(32)~~(31) Coachella Valley Ecological Reserve, Riverside County.

(A) The Bureau of Land Management, the Fish and Wildlife Service and The Nature Conservancy may carry out management activities necessary for fish and wildlife, flood control and vector control.

Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

~~(33)~~(32) Coal Canyon Ecological Reserve, Orange County.

(A) Hunting shall be permitted in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

(b) Method of take restrictions: Shotguns and archery equipment only.

~~(34)~~(33) Coldwater Canyon Ecological Reserve, Ventura County.

(A) The existing travel corridor through the area is open to foot traffic only. All other areas are closed to public entry.

~~(35)~~(34) Corral Hollow Ecological Reserve, San Joaquin County.

(A) No person, except as provided in subsection (a)(10), shall enter the reserve.

~~(36)~~(35) Corte Madera Marsh Ecological Reserve, Marin County.

(A) Boating is permitted, except only lightweight hand-carried boats may be launched within the reserve.

~~(37)~~(36) Crestridge Ecological Reserve, San Diego County.

(A) Non-motorized mountain biking may be allowed on designated roads during designated seasons as determined by the department. Closures may be implemented at the discretion of the department.

~~(38)~~(37) Dairy Mart Ponds Ecological Reserve, San Diego County.

(A) San Diego County, after consultation with the department, may carry out management activities for vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

~~(39)~~(38) Dales Lake Ecological Reserve, Tehama County.

(A) Waterfowl hunting shall be permitted in accordance with the general waterfowl regulations per Section 502, Title 14, CCR.

(B) Livestock grazing may be allowed under permit from the department.

(C) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled livestock grazing, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

~~(40)~~(39) Del Mar Landing Ecological Reserve, Sonoma County.

(A) Fishing is permitted for fin fish (those having vertebrae) only. Spear guns may be used for the taking of fin fish.

(B) Swimming, boating, skin and SCUBA diving are permitted.

~~(41)~~(40) Del Monte Dunes Ecological Reserve, Monterey County.

~~(42)~~(41) Eden Landing Ecological Reserve, Alameda County.

~~(43)~~(42) Elkhorn Slough Ecological Reserve (National Estuarine Research Reserve), Monterey County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) Fishing shall be conducted from only those specific areas of the reserve designated by the department.

(C) Hunting shall be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

(D) Grazing shall be allowed under permit from the department. The department may restrict the use of horses by grazing permittees.

(E) All designated public access trails are opened to foot access only.

(F) The causing of excessive noise especially that amplified electronically is prohibited.

(G) Picnicking shall be conducted in only those areas designated by the Department.

~~(44)~~(43) Estelle Mountain Ecological Reserve, Riverside County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations.

~~(45)~~(44) Fagan Marsh Ecological Reserve, Napa County.

(A) Fishing shall be permitted from boats, as well as from shore; only lightweight hand-carried boats may be launched and operated.

(B) Swimming and diving are permitted.

~~(46)~~(45) Fall River Mills Ecological Reserve, Shasta County.

~~(47)~~(46) Farallon Islands Ecological Reserve, San Francisco County

(A) Subsections (a)(1) through (a)(21) do not apply.

(B) Except as specifically prohibited under this section, boating, sport and commercial fishing, swimming, and skin and SCUBA diving are permitted within the ecological reserve, which extends one nautical mile from the coastline of Southeast Farallon and North Farallon Islands.

(C) All vessels shall observe a five (5) nautical mile per hour speed limit within 1,000 feet of any shoreline in the reserve.

(D) All commercial abalone and sea urchin diving vessels operating in the reserve shall terminate their vessel engine exhaust system either through a muffler for dry exhaust systems, or below the vessel waterline for wet exhaust systems.

(E) All commercial abalone and sea urchin diving vessels equipped with an open, deck-mounted air

compressor system, while operating in the reserve, shall have the air compressor's engine exhaust system terminate below the vessel waterline.

(F) From March 15 through August 15 of each year no vessel shall be operated or anchored less than 300 feet from the shoreline of any of the four islets comprising the North Farallons, including North Farallon, the Island of St. James and the two unnamed islets located between them, all as shown at about 37° 46' N, 123° 06' W on the 21st edition of NOAA chart 18645, dated August 11, 1990 and herein incorporated by reference, except in the area beginning at a line extending due west magnetic from the northernmost point of land on North Farallon and continuing clockwise to a line drawn due west magnetic from the southernmost point of land on North Farallon and in the area beginning at a line drawn due west magnetic from the northernmost point of land on the northernmost of the two unnamed islets extending clockwise to a line drawn due south magnetic from the southernmost point of land on that islet.

(G) From March 15 through August 15 of each year no vessel shall be operated or anchored less than 300 feet from the shoreline in the area beginning at the south end of Jordan Channel, westward around Indian Head, then generally northward past Great Arch Rock, then generally following the shoreline to a line extending due west from the northernmost point of land on Sugarloaf Island or in the area from the east end of Mussel Flat, generally southward to the northeasternmost point of land on Saddle Rock (Seal Rock) then generally southwest along the northerly shoreline of Saddle Rock to the southwesternmost point of land on Saddle Rock and continuing generally northward to the west end of Mussel Flat, both areas at Southeast Farallon Island.

(H) Nothing in this section shall prohibit emergency anchorage or vessel operation necessary to protect property or human life.

~~(48)~~(47) Farnsworth Bank Ecological Reserve, Los Angeles County.

(A) No purple coral (*Allopora californica*) or geological specimens may be taken.

(B) Subsections (a)(1) through (a)(21) do not apply.

~~(49)~~(48) Fish Slough Ecological Reserve, Inyo and Mono counties.

(A) Fishing is prohibited within the 20-acre fenced and posted plot of land encompassing two spring areas and an artificial impoundment of 5.6 acres located in the northwest corner of that area known as "Fish Slough," northern Inyo and southern Mono counties.

(B) Hunting shall be allowed in accordance with the general hunting regulations.

~~(50)~~(49) Fremont Valley Ecological Reserve, Kern County.

~~(51)~~(50) Goleta Slough Ecological Reserve, Santa Barbara County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) No person, except as provided in subsection (a)(10) or designated employees of Santa Barbara Airport, City of Santa Barbara and Goleta Valley Mosquito Abatement District for the purposes of carrying out official duties shall enter this reserve and remain therein except on established trails, paths or other designated areas.

(C) No fishing shall be allowed except at designated areas.

(D) Horses are prohibited.

(E) The department, City of Santa Barbara and the Goleta Valley Mosquito Abatement District may carry out management activities necessary for fish and wildlife management and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, minor ditching for mosquito abatement when approved by department and use of associated equipment.

~~(52)~~(51) Harrison Grade Ecological Reserve, Sonoma County.

~~(53)~~(52) Heisler Park Ecological Reserve, Orange County.

(A) All fishing is prohibited.

(B) Swimming, boating and other aquatic sports are permitted. Boats may be launched and retrieved only in designated areas and may be anchored within the reserve only during daylight hours.

~~(54)~~(53) Hidden Palms Ecological Reserve, Riverside County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

~~(55)~~(54) Indian Joe Springs Ecological Reserve, Inyo County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations.

~~(56)~~(55) Joshua Creek Canyon Ecological Reserve, Monterey County.

~~(57)~~(56) Kaweah Ecological Reserve, Tulare County.

(A) Grazing may be allowed only under permit from the department.

(B) Hunting shall be allowed in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

~~(58)~~(57) Kerman Ecological Reserve, Fresno County.

(A) Grazing may be allowed under permit from the Department.

(B) Hunting shall be permitted in accordance with general hunting regulations from July 1 through January 31. Only licensed hunters will be permitted to possess firearms. Shotguns only, discharging not larger than number 2 lead or size T steel shot, will be allowed on the area. Possession of firearms for other than law enforcement purposes will not be permitted on the area, except as provided herein.

(C) No plinking, firearms practice, or target shooting is allowed within the area.

~~(59)~~(58) King Clone Ecological Reserve, San Bernadino County.

~~(60)~~(59) Laguna de Santa Rosa Ecological Reserve, Sonoma County.

~~(61)~~(60) Laguna Laurel Ecological Reserve, Orange County.

~~(62)~~(61) Lake Mathews Ecological Reserve, Riverside County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) No person except as provided in subsection (a)(10) and employees and consultants of Metropolitan Water District and member public agencies of the District, in the performance of customary reservoir maintenance activities or other official duties, may enter or utilize boats, aircraft or motor vehicles within this reserve.

(C) All fishing is prohibited.

(D) Collections may be made by the department for the purposes of fish and wildlife management, or by Metropolitan Water District for the purpose of water quality testing.

(E) The department and Metropolitan Water District may carry out management activities necessary to ensure water quality and the proper operation and maintenance of Lake Mathews as a water supply facility and natural area. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, rodent control and use of associated equipment.

~~(63)~~(62) Limestone Salamander Ecological Reserve, Mariposa County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

~~(64)~~(63) Little Butte Ecological Reserve, Mendocino County.

~~(65)~~(64) Little Red Mountain Ecological Reserve, Mendocino County.

~~(66)~~(65) Loch Lomond Vernal Pool Ecological Reserve, Lake County.

~~(67)~~(66) Lokern Ecological Reserve, Kern County.

(A) Notwithstanding the provision of subsection (a)(15), grazing may be allowed under permit from the department.

(B) Hunting may be permitted in accordance with general hunting regulations only at such times and in specific areas as designated by the department.

~~(68)~~(67) Macklin Creek Ecological Reserve, Nevada County.

(A) All fishing is prohibited.

(B) Hunting shall be allowed in accordance with the general hunting regulations.

~~(69)~~(68) Magnesia Spring Ecological Reserve, Riverside County.

(A) No person, except as provided in subsection (a)(10), and employees of the City of Rancho Mirage in the performance of their official duties shall enter this reserve during the period June 15 to September 30.

(B) The County of Riverside may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

~~(70)~~(69) Marin Islands Ecological Reserve, Marin County.

~~(71)~~(70) Mattole River Ecological Reserve, Mendocino County.

~~(72)~~(71) McGinty Mountain Ecological Reserve, San Diego County.

~~(73)~~(72) Moro Cojo Ecological Reserve, Monterey County.

~~(74)~~(73) Morro Dunes Ecological Reserve, San Luis Obispo County.

~~(75)~~(74) Morro Rock Ecological Reserve, San Luis Obispo County.

(A) No person shall enter into or upon this reserve for any purpose except as follows:

1. For the purpose of fishing and sightseeing, persons may enter upon that portion of Morro Rock between the low tide mark and a point ten (10) feet in elevation above the mean high tide mark.
2. Those persons provided for in subsection (a)(10), and employees of the Department of Parks and Recreation may enter the reserve in the performance of their official duties.

~~(76)~~(75) Napa River Ecological Reserve, Napa County.

(A) Grazing is permitted under a permit from the department.

(B) No person, except as provided in subsection (a)(10), shall enter this reserve between sunset and sunrise.

(C) Swimming is permitted.

(D) The possession and/or consumption of alcoholic beverages is prohibited.

~~(77)~~(76) Oasis Springs Ecological Reserve, Riverside County.

(A) All fishing is prohibited.

(B) Hunting shall be permitted in accordance with general hunting regulations.

~~(78)~~(77) Offshore Rocks and Pinnacles, coastal counties.

~~(79)~~(78) Otay Mountain Ecological Reserve, San Diego County.

(A) Hunting shall be allowed in accordance with the general hunting regulations and the Bureau of Land Management's Wilderness Area Restrictions.

~~(80)~~(79) Panoche Hills Ecological Reserve, Fresno County.

(A) Grazing may be allowed under permit from the department.

(B) Hunting shall be permitted in accordance with general hunting regulations from July 1 through January 31. Only licensed hunters will be permitted to possess firearms.

(C) No plinking, firearms practice, or target shooting is allowed within the area.

~~(81)~~(80) Peytonia Slough Ecological Reserve, Solano County.

(A) Fishing shall be permitted from boats as well as from shore.

(B) Swimming, wading and diving shall be permitted within the reserve.

(C) Boats may be operated within the reserve; however, only lightweight, hand-carried boats may be launched within the reserve.

~~(82)~~(81) Phoenix Field Ecological Reserve, Sacramento County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

~~(83)~~(82) Pine Hill Ecological Reserve, El Dorado County including the Salmon Falls Unit.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

(B) No horses are permitted within the boundaries of the reserve.

~~(84)~~(83) Pismo Lake Ecological Reserve, San Luis Obispo County.

(A) All fishing is prohibited.

~~(85)~~(84) Piute Creek Ecological Reserve, San Bernardino County.

(A) Hunting shall be allowed in accordance with the general hunting regulations.

~~(86)~~(85) Pleasted Creek Ecological Reserve, San Diego County.

~~(87)~~(86) Pleasant Valley Ecological Reserve, Fresno County.

(A) Grazing may be allowed under permit from the department.

(B) Hunting may be permitted in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

~~(88)~~(87) Point Lobos Ecological Reserve, Monterey County.

(A) All fishing is prohibited.

(B) Swimming, boating, and other aquatic sports are permitted. Boats may be launched and retrieved only in designated areas and may be anchored within the reserve only during daylight hours.

~~(89)~~(88) Quail Hollow Ecological Reserve, Santa Cruz County.

~~(90)~~(89) Quail Ridge Ecological Reserve, Napa County.

(A) No person, except as provided in subsection (a)(10) shall enter this reserve without permission from the department.

(B) Hunting will be permitted only as specially authorized hunts determined by the department.

~~(91)~~(90) Rancho Jamul Ecological Reserve, San Diego County.

(A) Controlled retriever training may be permitted within a designated area. This area shall be clearly posted.

(B) Hunting shall be allowed in accordance with the general hunting regulations, but only at such times

and in specific areas as designated by the department.

~~(92)~~(91) Redwood Shores Ecological Reserve, San Mateo County.

(A) Fishing shall be permitted from boats as well as from shore; only lightweight, hand-carried boats may be launched and operated.

(B) Swimming, wading and diving shall be allowed within the ecological reserve.

(C) Bicycles are allowed along levee-top road system.

~~(93)~~(92) River Springs Lakes Ecological Reserve, Mono County.

(A) Hunting shall be permitted in accordance with the general hunting regulations.

~~(94)~~(93) Saline Valley Ecological Reserve, Inyo County.

(A) Hunting shall be allowed in accordance with the general hunting regulations.

~~(95)~~(94) San Bruno Mountain Ecological Reserve, San Mateo County.

~~(96)~~(95) San Diego-La Jolla Ecological Reserve, San Diego County.

(A) Commercial bait fishing for squid, only by use of hand-held scoop net, is authorized offshore west of a line drawn due north from Goldfish Point. All other forms of fishing are prohibited.

(B) Swimming, boating, and other aquatic sports are permitted. Boats may be launched and retrieved only in designated areas and may be anchored within the reserve only during daylight hours.

~~(97)~~(96) San Dieguito Lagoon Ecological Reserve, San Diego County.

(A) Fishing shall be permitted from shore and from the Grand Avenue bridge.

(B) No person, except as provided in subsection 630(a)(10), shall be permitted on the California least tern nesting island.

(C) No person, except as provided in subsection 630(a)(10), shall enter this reserve between 8:00 p.m. and 5:00 a.m.

(D) The County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(E) Collections of fish, wildlife, water and soil may be made by the Department for the purposes of fish and wildlife management or by San Diego County for the purposes of water quality testing and vector control.

~~(98)~~(97) San Elijo Lagoon Ecological Reserve, San Diego County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) San Diego County, after consultation with the department, may carry out management activities for fish and wildlife management, flood control, vector control and regional park recreational activities. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, minor ditching and use of associated equipment.

(C) Collections may be made by the department for purposes of fish and wildlife management or by San Diego County for the purpose of water quality testing and vector control.

~~(99)~~(98) San Felipe Creek Ecological Reserve, Imperial County.

(A) Hunting shall be permitted in accordance with the general hunting regulations.

~~(100)~~(99) San Joaquin River Ecological Reserve.

(A) No person shall enter into any unit of this reserve except as provided in subsection a(10), or as provided by written permission or by posted notice of the regional manager who will designate appropriate times and/or areas open to public use.

(B) The Department may carry out or cause to be carried out management activities for fish and wildlife, flood control, and vector control. Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(C) Boating is permitted, subject to the limitations of subsection (A) above. Except in the execution of law enforcement, emergency services, or official duties of department employees or contractors, only lightweight, hand carried, non-gasoline powered floating devices may be launched and operated from designated launching sites. The Regional Manager or his designee may further restrict the use and operation of boats to protect the resource or provide for the orderly operation of recreational programs maintained on the area. Boating restrictions may include, but are not limited to, seasonal closures.

(D) Angling shall be permitted from boats as well as from shore, subject to the limitations in subsections

(A) and (C), above.

(E) Subsection (a)(20) notwithstanding, late night or over-night use for camping and other purposes may be allowed subject to limitations in subsection (A) above.

(F) Subsection (a)(11) notwithstanding, the Department may, for management purposes, introduce or cause to be introduced nonendemic fish species which are naturalized in the San Joaquin River system, primarily to establish and maintain urban sport-fishing opportunities.

(G) Subsection (a)(17) shall not be construed to prohibit aircraft from operating within a normal flight pattern when taking off from or landing at the Sierra Skypark airport located approximately one-quarter mile south of the reserve.

(H) Grazing for vegetation management may be allowed under permit from the department.

~~(101) San Miguel Island Ecological Reserve, Santa Barbara County.~~

~~(A) Fishing is not permitted from shore or areas closed to boating. Recreational fishing with hook and line, spear gun or hand-held implements is permitted in other reserve waters. Commercial fishermen possessing abalone, lobster or sea urchin permits, using hook and line gear or trap gear for rock crab may fish in the reserve in areas open to boating. Commercial fishermen desiring to use other gear or seeking species not authorized by their permit must apply and obtain a permit in compliance with subsection (a)(2).~~

~~(B) Swimming, skin and SCUBA diving are permitted in all areas where boating is authorized.~~

~~(C) Boating is permitted except west of a line drawn between Judith Rock and Castle Rock where boats are prohibited closer than 300 yards from shore. Boats may be anchored overnight in the reserve only at Tyler Bight and Cuyler Harbor. Boats traveling within 300 yards of shoreline or anchorages shall operate with a minimum amount of noise and shall not exceed speeds of five miles per hour. Landing is allowed on San Miguel Island by permit only at the designated landing beach in Cuyler Harbor. No person, except as provided in subsection (a)(10) shall have access to all other offshore rocks and islands in the reserve.~~

~~1. Notwithstanding the 300-yard boating closure between Judith Rock and Castle Rock, the following shall apply:~~

~~a. Boats may approach no nearer than 100 yards from shore during the period(s) from March 15 through April 30, and October 1 through December 15; and~~

~~b. Boats operated by commercial abalone diving permittees and commercial sea urchin boat operators who have been issued permits by the department to take sea urchins from the Point Bennett area of San Miguel Island may enter any waters of the 300-yard area between Judith Rock and Castle Rock for the purpose of fishing abalone and sea urchins during the period(s) March 15 through April 30, and October 1 through December 15.~~

~~2. The department may rescind permission for boats to enter waters within 300 yards between Judith Rock and Castle Rock upon finding that impairment to the island marine mammal resource is imminent. Immediately following such closure, the department will request the commission to hear, at its regularly scheduled meeting, presentation of documentation supporting the need for such closure.~~

~~(102) Santa Barbara Island Ecological Reserve, Santa Barbara County.~~

~~(A) Boating, sport and commercial fishing, spearfishing, swimming and diving with underwater breathing apparatus are permitted within the ecological reserve which extends one mile from the nearest point of the principal island of Santa Barbara.~~

~~(B) No invertebrates may be taken from the mean high tide mark seaward to a water depth of 20 feet on the eastern side of the island between a line extending 345 magnetic off the northernmost point of Arch Rock and a line extending 165 magnetic off the southernmost point.~~

~~(C) No net or trap may be used in waters less than 20 feet in depth off the eastern side of the island between a line extending 345 magnetic off the northernmost point of Arch Rock and a line extending 165 magnetic off the southernmost point of Santa Barbara Island.~~

~~(D) No person shall fire or discharge any firearm or explosive devices, air or gas gun within this reserve.~~

~~(E) Harvesting of kelp from kelp lease sites within the Santa Barbara Island Ecological Reserve shall be permitted.~~

~~(103)(100) Santa Cruz Long-toed Salamander Ecological Reserve, Santa Cruz County.~~

~~(A) No person shall enter the reserve for any purpose except as follows:~~

~~1. Those persons provided for in subsection (a)(10), and employees of the departments of Parks and Recreation and Transportation in the performance of their official duties.~~

~~(104)(101) Santa Rosa Plateau Ecological Reserve, Riverside County.~~

(A) Notwithstanding the provisions of subsection (a)(18), only those animals assisting visually impaired or disabled persons are permitted.

(B) Notwithstanding the provisions of subsection (a)(7), equestrian use shall be limited to docent-led tours.

~~(405)~~(102) Springville Ecological Reserve, Tulare County.

(A) No person, except as provided in subsection (a)(10), shall enter between sunset and sunrise.

~~(406)~~(103) Stone Corral Ecological Reserve, Tulare County.

(A) Notwithstanding the provision of subsection (a)(15), grazing may be allowed under permit from the department.

(B) Hunting may be permitted in accordance with general hunting regulations only at such times and in specific areas as designated by the department.

~~(407)~~(104) Sycamore Canyon Ecological Reserve, Riverside County.

~~(408)~~(105) Sycuan Peak Ecological Reserve, San Diego County.

~~(409)~~(106) Table Bluff Ecological Reserve, Humboldt County.

(A) Livestock grazing may be allowed under permit from the department.

(B) The department may carry out management activities for the preservation and expansion of the endangered western lily (*Lilium occidentale*). Authorized management activities may include, but not be limited to, controlled livestock grazing, controlled burning, chemical treatment and mechanical treatment.

(C) Except as provided in subsection (a)(10) no persons shall enter the fenced western lily area.

~~(440)~~(107) Theiller Sebastopol Meadowfoam Ecological Reserve, Sonoma County.

~~(444)~~(108) Thomes Creek Ecological Reserve, Tehama County.

(A) Livestock grazing may be allowed under permit from the department.

(B) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled livestock grazing, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

~~(442)~~(109) Tomales Bay Ecological Reserve, Marin County.

(A) Waterfowl may be taken in accordance with the general waterfowl regulations.

(B) Fishing shall be permitted from boats as well as from shore; only lightweight, hand-carried boats may be launched and operated.

(C) Swimming, wading, and diving shall be allowed within the reserve.

(D) The land area only of the reserve shall be closed to all entry from March 1 through June 30.

~~(443)~~(110) Upper Newport Bay Ecological Reserve, Orange County.

(A) Fishing shall be permitted from boats as well as from shore.

(B) Swimming is permitted only in that area bayward from North Star Beach to mid-channel.

(C) Boating is permitted, except boats are limited to five miles per hour.

(D) No person shall walk, or ride horseback except on established trails, paths, or other designated areas.

(E) The County of Orange may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

~~(444)~~(111) Walker Canyon Ecological Reserve, San Diego County.

(A) Hunting shall be allowed in accordance with the general hunting regulations.

~~(445)~~(112) Watsonville Slough Ecological Reserve, Santa Cruz County.

~~(446)~~(113) West Mojave Desert Ecological Reserve, San Bernardino County.

(A) Hunting shall be permitted in accordance with the general hunting regulations from July 1 to January 31. Only licensed hunters shall be permitted to possess firearms.

(B) No plinking, firearms practice or target shooting is allowed within the ecological reserve.

~~(447)~~(114) Woodbridge Ecological Reserve, San Joaquin County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

~~(448)~~(115) Yaudanchi Ecological Reserve, Tulare County.

(A) Grazing is permitted under a permit from the department.

(B) No person, except as provided in subsection (a)(10), shall enter this reserve between sunset and sunrise.

(C) No person shall walk except on established trails, paths, or other designated areas.

(D) Horses, except by written permission of the Department for the purpose of grazing, are prohibited.
(116) Yorkville Ecological Reserve, Mendocino County.

NOTE: Authority cited: Sections 1580, 1581, 1583 and 1907, Fish and Game Code. Reference: Sections 1526, 1528, 1530 and, 1580-1585, 1590 and 1591, Fish and Game Code.

Section 632, Title 14, CCR, is added to read:

632. Marine Protected Areas.

The areas specified in this section have been declared by the commission to be Marine Protected Areas. Public use of Marine Protected Areas shall be compatible with the primary purposes of such areas, and subject to the following applicable general rules and regulations, except as otherwise provided for in section 632(b), areas and special regulations for use. Nothing in this section expressly or implicitly precludes, restricts or requires modification of current or future uses of the waters identified as Marine Protected Areas or the lands or waters adjacent to these designated areas by the Department of Defense, its allies or agents.

(a) General Rules and Regulations:

(1) Protection of Resources.

(A) State Marine Reserves: In a state marine reserve, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a permit or specific authorization from the commission for research, restoration, or monitoring purposes.

(B) State Marine Conservation Areas: In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes except as specified in section 632(b), areas and special regulations for use. The commission may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features.

(2) Pelagic Finfish. Pelagic finfish, for the purpose of this section, are defined as: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena* sp.), billfishes* (family Istiophoridae), dolphinfish (*Coryphaena hippurus*), Pacific herring (*Clupea pallasii*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus* spp.), Pacific sardine (*Sardinops sagax*), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias* spp.), swordfish (*Xiphias gladius*), tunas (family Scombridae), and yellowtail (*Seriola lalandi*). *Marlin is not allowed for commercial take.

(3) Access. Access into Marine Protected Areas for non-consumptive uses including but not limited to swimming, surfing, diving, boating, hiking and walking is allowed unless otherwise specified in section 632(b), areas and special regulations for use.

(4) Ejection. Employees of the department may eject any person from a Marine Protected Area for violation of any of these rules or regulations or for any reason when it appears that the general safety or welfare of the Marine Protected Area, its associated flora and fauna, or persons thereon is endangered.

(5) Introduction of Species. Unless authorized by the commission, the release of any fish or wildlife species, including domestic or domesticated species, or the introduction of any plant species, is prohibited. The department may reintroduce endemic species to Marine Protected Areas for management purposes.

(6) Feeding of Wildlife. The feeding of wildlife is prohibited.

(7) Anchoring. Vessels shall be allowed to anchor in any Marine Protected Area with catch onboard unless otherwise specified in section 632(b), areas and special regulations for use. Fishing gear must be stowed and not in use while anchored in a Marine Protected Area. Anchoring regulations shall be consistent with federal law and allowances made for anchoring required by emergency or severe weather.

(8) Transit. Vessels shall be allowed to transit through Marine Protected Areas with catch onboard provided fishing gear is stowed and not in use.

(b) Areas and Special Regulations for Use:

(1) Santa Barbara Island State Marine Reserve. This area is bounded by the mean high tide line, the three nautical mile offshore boundary and the following points:

33° 28.5' N. lat. 119° 01.7' W. long.;

33° 28.5' N. lat. 118° 58.2' W. long.;

33° 24.9' N. lat. 119° 02.2' W. long.;

33° 27.9' N. lat. 119° 02.2' W. long.

(2) Anacapa Island State Marine Reserve. This area is bounded by the mean high tide line and the following points:

34° 04' N. lat. 119° 24.6' W. long.;

34° 04' N. lat. 119° 21.4' W. long.;

34° 01.2' N. lat. 119° 21.4' W. long.;

34° 00.4' N. lat. 119° 24.6' W. long.

(3) Anacapa Island State Marine Conservation Area. This area is bounded by the mean high tide line and the following points:

34° 04' N. lat. 119° 26.7' W. long.;

34° 04' N. lat. 119° 24.6' W. long.;

34° 00.4' N. lat. 119° 24.6' W. long.;

34° 00.8' N. lat. 119° 26.7' W. long.

(A) No take of living or non-living marine resources is allowed except for the recreational take of spiny lobster (*Panulirus interruptus*) and pelagic finfish (632(a)(2) and the commercial take of spiny lobster.

(B) No net or trap may be used in waters less than 20 feet deep off the Anacapa Islands commonly referred to as Anacapa Island.

(C) A brown pelican fledgling area is designated from the mean high tide mark seaward to a water depth of 20 fathoms (120 feet) on the north side of West Anacapa Island between a line extending 345 magnetic off Portuguese Rock to a line extending 345 magnetic off the western edge of Frenchy's Cove, a distance of approximately 4,000 feet. No person except department employees or employees of the National Park Service in the performance of their official duties shall enter this area during the period January 1 to October 31.

(4) Scorpion (Santa Cruz Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

34° 06.2' N. lat. 119° 35.5' W. long.;

34° 06.2' N. lat. 119° 32.8' W. long.;

34° 02.8' N. lat. 119° 32.8' W. long.;

34° 02.9' N. lat. 119° 35.5' W. long.

(5) Painted Cave (Santa Cruz Island) State Marine Conservation Area. This area is bounded by the mean high tide line, the one nautical mile offshore boundary, and the following points:

34° 05.2' N. lat. 119° 53' W. long.;

34° 05' N. lat. 119° 51' W. long.;

34° 04' N. lat. 119° 51' W. long.;

34° 04.5' N. lat. 119° 53' W. long.

(A) No take of living or non-living marine resources is allowed except for the recreational take of spiny lobster (*Panulirus interruptus*) and pelagic finfish (632(a)(2).

(6) Gull Island (Santa Cruz Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

33° 58' N. lat. 119° 53' W. long.;

33° 58' N. lat. 119° 51' W. long.;

33° 57.7' N. lat. 119° 48' W. long.;

33° 55.2' N. lat. 119° 48' W. long.;

33° 55.2' N. lat. 119° 53' W. long.

(7) Carrington Point (Santa Rosa Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

34° 04' N. lat. 120° 5.2' W. long.;

34° 04' N. lat. 120° 01' W. long.;

34° 00.5' N. lat. 120° 01' W. long.;

34° 00.5' N. lat. 120° 02.8' W. long.;

34° 01.3' N. lat. 120° 05.2' W. long.

(8) Skunk Point (Santa Rosa Island) State Marine Reserve. This area is bounded by the mean high tide

line and the following points:

33° 59' N. lat. 119° 58.8' W. long.;

33° 59' N. lat. 119° 58' W. long.;

33° 57.1' N. lat. 119° 58' W. long.;

33° 57.1' N. lat. 119° 58.2' W. long.

(9) South Point (Santa Rosa Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

33° 55' N. lat. 120°10' W. long.;

33° 53.8' N. lat. 120°06.5' W. long.;

33° 51.4' N. lat. 120° 10' W. long.;

33° 51.4' N. lat. 120°06.5' W. long.

(10) Harris Point (San Miguel Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

34° 06' N. lat. 120°23.3' W. long.;

34° 06' N. lat. 120°18.4' W. long.;

34° 01.8' N. lat. 120°18.4' W. long.;

34° 03.1' N. lat. 120°23.3' W. long.

(A) An exemption to the reserve, where commercial and recreational take of living marine resources is allowed, exists between the mean high tide line in Cuyler Harbor and a line between the following points:

34°03.5' N. lat. 120° 21.3' W. long.;

34°02.9' N. lat. 120° 20.2' W. long.

(B) Boating is permitted at San Miguel Island except west of a line drawn between Judith Rock and Castle Rock where boats are prohibited closer than 300 yards from shore. Boats may be anchored overnight only at Tyler Bight and Cuyler Harbor. Boats traveling within 300 yards of shoreline or anchorages shall operate with a minimum amount of noise and shall not exceed speeds of five miles per hour. Landing is allowed on San Miguel Island by permit only at the designated landing beach in Cuyler Harbor. No person shall have access to all other offshore rocks and islands in the reserve.

1. Notwithstanding the 300-yard boating closure between Judith Rock and Castle Rock, the following shall apply:

a. Boats may approach San Miguel Island no nearer than 100 yards from shore during the period(s) from March 15 through April 30, and October 1 through December 15; and

b. Boats operated by commercial sea urchin boat operators who have been issued permits by the department to take sea urchins from the Point Bennett area of San Miguel Island may enter any waters of the 300-yard area between Judith Rock and Castle Rock for the purpose of fishing sea urchins during the period(s) March 15 through April 30, and October 1 through December 15.

2. The department may rescind permission for boats to enter waters within 300 yards between Judith Rock and Castle Rock upon finding that impairment to the island marine mammal resource is imminent. Immediately following such closure, the department will request the commission to hear, at its regularly scheduled meeting, presentation of documentation supporting the need for such closure.

(11) Richardson Rock (San Miguel Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

34°08.4' N. lat. 120°34.2' W. long.;

34°08.4' N. lat. 120°28.2' W. long.;

34°03.6' N. lat. 120°28.2' W. long.;

34°03.6' N. lat. 120°34.2' W. long.

(12) Judith Rock (San Miguel Island) State Marine Reserve. This area is bounded by the mean high tide line and the following points:

34°01.8' N. lat. 120° 26.6' W. long.;

34°01.5' N. lat. 120° 25.3' W. long.;

33°58.5' N. lat. 120° 25.3' W. long.;

33°58.5' N. lat. 120° 26.5' W. long.

NOTE: Authority: Sections 200, 203.1, 205(c), 219, 220, 1590, 1591, and 2860 Fish and Game Code. Sections 36725(a) and 36725(e) Public Resources Code.

Reference: Sections 200, 203.1, 205(c), 219 and 220, Fish and Game Code. Sections 36725(a) and 36725(e) Public Resources Code.